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# California JOURNAL

INDEPENDENT ANALYSIS OF POLITICS AND GOVERNMENT

## Children in crisis?



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# California JOURNAL

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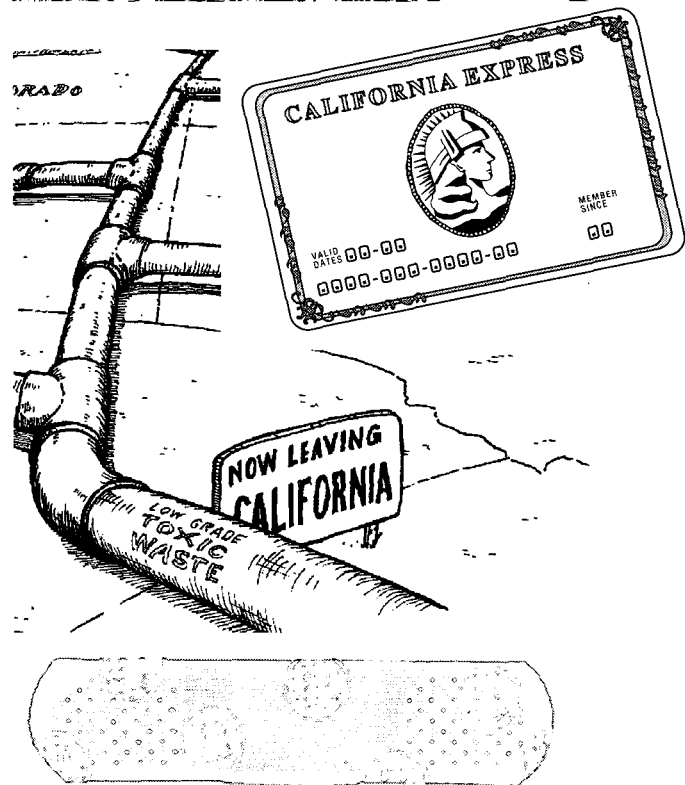
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# UP FRONT

**Low Road of the Month:** *Listen, America, and you will hear, the mean, crass murmur of a political smear.*

Smears are not new to American politics. Nor is the “big lie.” Forty years ago, the late Joseph McCarthy, a Republican member of the U.S. Senate from Wisconsin, was so adept at smears and innuendo that he gave his name to the technique of using them — “McCarthyism.” During the late 1940s and early 1950s, McCarthy roamed the political landscape, charging that the administration of Democratic President Harry Truman was riddled with Communist sympathizers who were endangering national security. McCarthy had almost no evidence to support the charge, nor was he much interested in national security. He was, however, interested in enhancing the political career of Joseph McCarthy, and he gained wide notoriety by playing on America’s fears of Communism and the Soviet Union. Thus, McCarthy repeated his allegations over and over and over without offering to prove them. Over time, McCarthy’s unsubstantiated — and, in most cases, false — accusations destroyed the careers of many of his targets, and people came to fear the charge more than respect the truth. Eventually, McCarthy himself was repudiated. But it took nearly half a decade, and along the way he spooked the political world.

Well, in case you missed McCarthy the first time around, the current political season offers a somewhat tawdry version for your listening pleasure. And some of it comes courtesy of three Republican congressmen from Southern California — Bob Dornan of Garden Grove, Duncan Hunter of Coronado and Randy Cunningham of San Diego. The three, among others, have spent the past month or so spreading tales about Democratic presidential nominee Bill Clinton. Each in turn has taken to the well of the U.S. House of Representatives (and, therefore, to television via C-SPAN) to lambast Clinton’s patriotism, basing their denunciations on his anti-Vietnam War activities while a

Rhodes Scholar at England’s Oxford University during the late 1960s. Dornan, especially, has focused on a trip that Clinton made to Moscow in 1969, speculating that during that trip Clinton met with Soviet intelligence agents to plot anti-war demonstrations and thus became a tool of the KGB.

Dornan has defended his remarks, saying that the circumstances — Clinton traveled to Moscow, stayed there awhile, met with Soviet citizens, returned to the West via Prague, opposed U.S. involvement in Southeast Asia — allows him to “surmise” about what Clinton did in Moscow, despite not having a shred of evidence to support his “surmise.”

Cunningham, meanwhile, has compared Clinton’s trip with the activities of “Tokyo Rose” — the American who made propaganda broadcasts on behalf of the Japanese to U.S. forces in the Pacific during World War II.

Bill Clinton’s character may be fair game, but the kind of hyperbole practiced by Dornan, et al, seems to stray just a teensy weensy bit beyond the bounds of decency. Not to mention truth. Reports from Washington indicate that this smear strategy was cooked up by the president’s re-election campaign, which then recruited the three Californians as attack dogs. And why would otherwise decent public servants like Duncan Hunter and Randy Cunningham agree to go along? Perhaps the answer is found in the words of Aldous Huxley: “The surest way to work up a crusade in favor of some good cause is to promise people that they will have a chance of maltreating someone.... to be able to destroy with good conscience, to be able to behave badly and call your bad behavior ‘righteous indignation’ ...”

Dornan, of course, can be forgiven for his role in all this. Dornan, you see, may have fallen on his head. Well, no, we don’t know this for a fact. But given his occasional behavior — ranting on the floor of the House, threats of physical harm to House colleagues, attempts to crash private meetings in the state Capitol, unsubstantiated accusations

against presidential candidates — we’re allowing ourselves to “surmise.”

**Low Road of the Month** (runner-up): Well, if the “surmise” works at the national level, why not at the local level? Comes now Gordon Bloyer, campaign manager for Peter Frusetta, a Republican running against incumbent Democrat Rusty Areias in the 28th Assembly District. In an October 7th press release, Bloyer accused Areias of using drugs: “We hear from people in Fresno and Los Banos that [Areias] had used drugs. At first, we did not believe this. Several things caused us to change our minds.”

And what hard evidence brought about this change? Well, none. But he did surmise.

“One was his appearance,” Bloyer said in the release. “We noticed the sometime puffy face, a constant fidgeting and a sudden flush of complexion.” Bloyer also cited Areias losing his temper at “a 68-year-old school teacher” and “many, many people’s reporting of [Areias] strange behavior.”

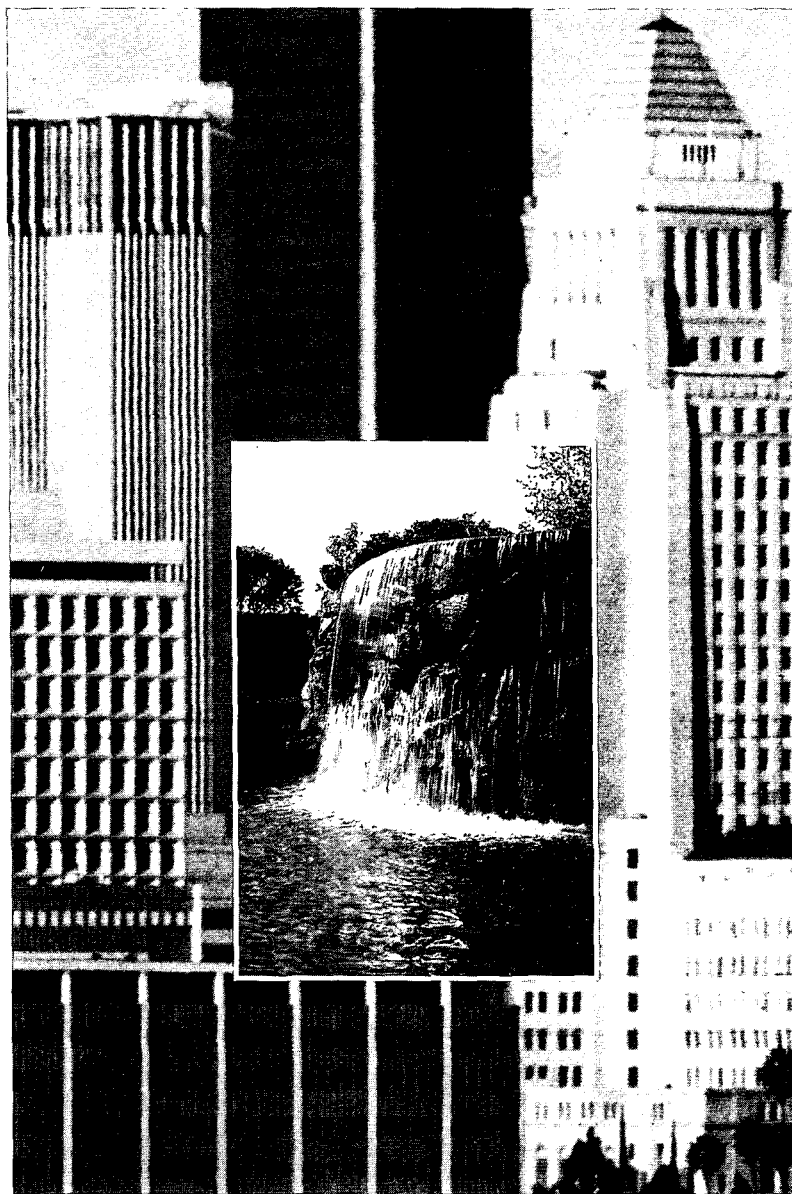
The strange behavior? According to Bloyer, Areias arrived 20 minutes late for a Capitol meeting with members of the Watsonville City Council, ate a pear during the meeting, then left after only 15 or 20 minutes. Bloyer said Areias did “exactly the same thing” with a group of local restaurateurs. A councilman from Pacific Grove, said Bloyer, reported that Areias acted “spacey” during a meeting. Bloyer did not say when these meetings took place, nor would he identify the name of anyone who has witnessed Areias use drugs.

“We’re trying to get someone to come forward,” Bloyer said, adding that one of his sources is a female member of Areias’ family.

Bloyer, a former private investigator, acknowledged that Areias’ behavior could have been caused by illness or by the stress of a prolonged budget fight rather than by drugs, and he further admitted that his drug allegations were unsubstantiated.

“I’m not making charges,” he said.

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"But questions [about Areias' behavior] keep coming up, and people want to know what's going on."

To that end, Bloyer challenged Areias to join Frusetta in submitting to a drug test. "He should flat out deny [drug use]," Bloyer said. "He should be on record."

And if his "surmise" about Areias' alleged drug use proves false?

"I'll stand in the middle of Broadway in San Francisco and apologize," Bloyer said.

Areias, meanwhile, is having none of it. In a prepared statement, the Democratic incumbent denied the allegations, then challenged Frusetta to agree to an independent panel to review all campaign materials. Frusetta, said Areias, has "crossed the line between running an aggressive campaign to one which promotes untruths and employs smear tactics."

Apparently, too, Bloyer's boss is having none of it. Frusetta admitted that his campaign manager acted without his approval in accusing Areias of drug use. "I have no proof. I'm sorry it happened," Frusetta told the *Hollister Freelance*.

Bloyer reacted to Frusetta's remark with another surmise: "I want Areias to deny it. I want him to hang on his own words."

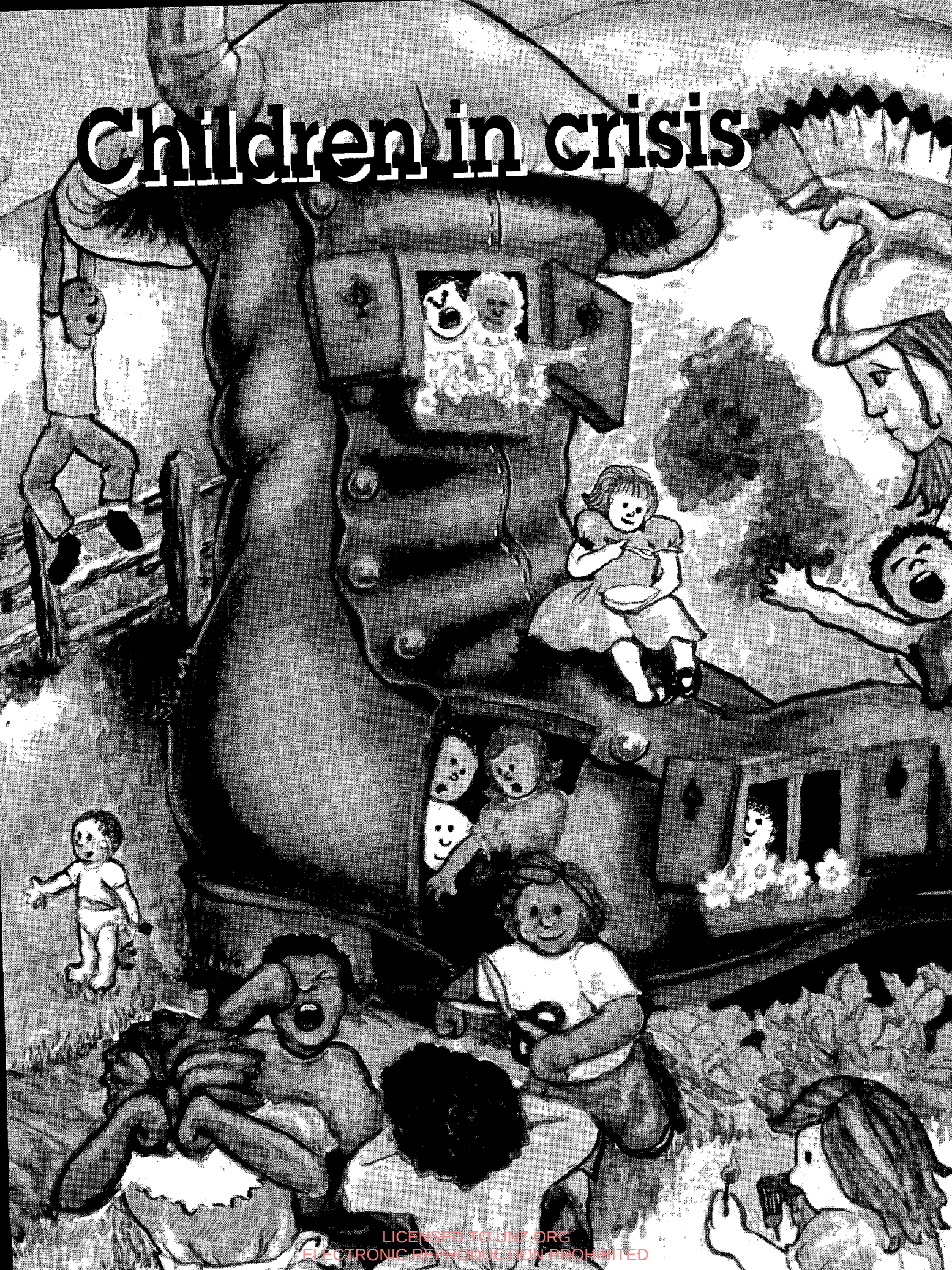
Yes, well, we all do that now and then.

*"We must use language to enlighten the mind, not as the instrument of studied innuendo and distortion of truth. And we must live by what we say."*

— Dwight David Eisenhower

*Come across a blurb lately that's nosy, newsy or smartalecky about California government, politics or politicians? Share it with the Journal. We pay up to \$25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 1714 Capitol Avenue, Sacramento, CA 95814. Sorry, submissions cannot be returned.*

# Children in crisis





By Danielle Starkey

In his inaugural address, Governor Pete Wilson vowed to make "prevention" a hallmark of his administration. He promised to build a generation of healthy children — not just to wait around with a safety net in case they fell.

Nearly two years later, Wilson still says he's committed "to a mode of anticipation and prevention," but he doesn't sound as convincing. Even the old safety net would look good right now, say children's advocates, for in their view, California's children are in crisis.

Nearly two million children have no medical insurance. Half the two-year-olds in the state haven't been properly immunized against deadly or crippling diseases such as polio. Welfare grants — which help put food on the table for 1.6 million of California's children — were cut 5.8 percent this year, after a 4.4 percent cut last year.

Education spending has dipped as well. Per-pupil spending in California, which has been below the national average for a decade, is about 90 percent of that average. Faced with a needier group of children to educate, school districts have eliminated nurses, librarians and counselors — the sentries for children in trouble or heading for trouble.

No one believes that the whole truckload of blame for children's problems belongs to the governor's doorstep. But Wilson, who proposed cutting education an additional \$2.3 billion this year and who now is putting nearly all of his political muscle into a budget-tinkering, welfare-cutting measure set for the November ballot (Proposition 165), appears to have had a change of heart with regard to preventive programs.

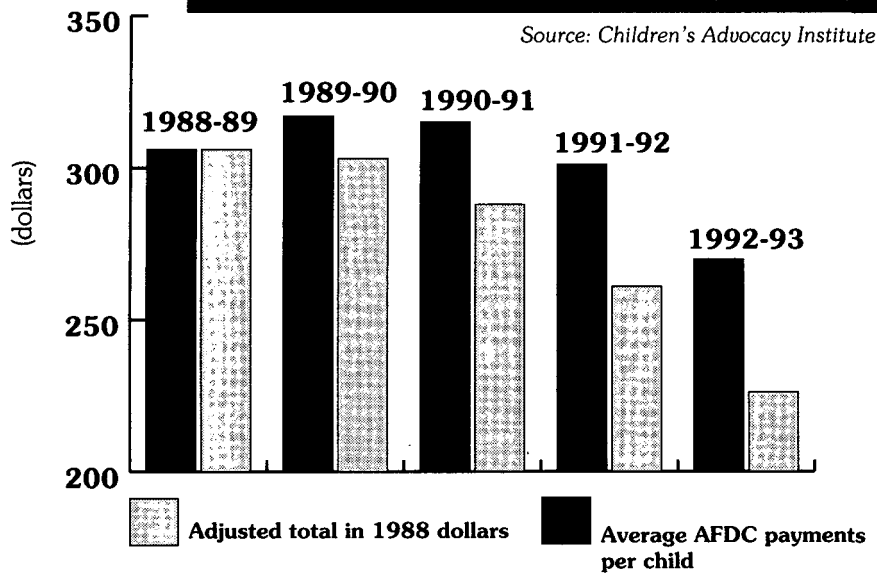
Since children make up about 70 percent of AFDC (Aid to Families with Dependent Children) recipients, children's advocates demand to know how anyone who wants to slash welfare payments by up to 25 percent can call himself a friend of children. All the other programs the governor has proposed and supported amount to a hill of beans compared to the big welfare cuts he wants, a move that could push tens of thousands of families living on the edge deeper into poverty and even out onto the streets, they say.

Wilson and his allies — who, it should be noted, also think of themselves as children's advocates — say that deep cuts in welfare benefits and elsewhere are the state's only prudent choice. California, which once out-performed the nation's economy, is now limping along with an unemployment rate 2.2 percent higher than the national average. The state took in less money last fiscal year than it spent, and economists predict no relief in sight. Some even predict unemployment rising to 11 percent by next summer. On top of this, if the state were to keep up the same level of services this year as last, it would need \$11 billion in additional money.

Kimberly Belshe, deputy director of policy for the state Health and Welfare Agency, and Maureen DiMarco, secretary of Child Development and Education, are among those who defend the governor. They say that Wilson has done much to promote his prevention agenda for children but in the end has been thwarted by either the Legislature or declining revenues.

In addition, they say, California — which gets a disproportionate share of new immigrants (many of whom require aid) and which has a growing caseload of welfare recipients — is suffering from an imbalance of what Wilson calls "taxpayers and tax users." The result is that the state can no longer afford to be as generous with its welfare payments, and, in fact, will have to keep the belt tight around all

## Aid to Families with Dependent Children (AFDC)



spending programs.

"The governor came into office in January 1991 when a fiscal crisis was evident," said Belshe, who was an aide to Wilson when he was a U.S. senator. "He knew he had to look at all programs, particularly those growing at a rate far beyond our ability to pay," she said, singling out for example the state's AFDC program, which is growing faster than the state's overall population.

**W**ilson's critics say that he's exaggerated the state's financial plight, and that, in any case, if he truly were an advocate for prevention programs and children, he would find the money for them somewhere.

"There clearly is a big shortfall in revenues to the state. But we need to decide what's important and where the money could come from," said Robert Fellmeth, one of Ralph Nader's original "raiders" and founder of the Children's Advocacy Institute. "California is an extremely rich state. To look at the wealth we have and to say some child's going to have to go hungry because we can't afford it ... is a lie. And to suddenly be complaining that we're paupers but also to say that we're not willing to look at our tax policy is outrageous.

"The issue is not raising or lowering taxes," Fellmeth added. "It's who should pay taxes for what. You could very easily increase revenues, and at the same time increase tax equity." For example, he said, while the state may have a legitimate interest in home-loan interest deductions, "We are against giving them for mansions."

And there are certain things the government says it's not going to collect taxes on. "Those things need to be looked at as revenue," he added.

DiMarco, a Democrat who is a former president of the California School Boards Association, disagrees that tax shifts are an answer.

"If you close up all the tax loopholes, you're still not going to get what you need, and it's still engaging in gimmicks. All of us have to tighten our belts," said DiMarco, who two years ago battled education cuts proposed by Wilson's predecessor

— former GOP Governor George Deukmejian.

"I wish we didn't have to [make cuts]. But the key word is *have* to. Have to," she said, adding that the state has lost an estimated \$25 billion in revenues in the past two years. "After decades of quickie taxes to patch us through, being treated well — in this atmosphere — equals being cut less than anybody else."

Threatening to raise business taxes could further erode the state's job base, which already is leaking jobs to states with lower wages and looser regulations, DiMarco said.

The Children's Advocacy Institute, in a report released this summer on the condition of California's children, argues that "huge" cuts have taken place in state spending on children's programs since 1988 (please see charts). To cut children's programs further, therefore, does not constitute "spreading the pain evenly."

The report also notes that California will lose millions of dollars in federal funds because of decisions to cut state spending on programs that get matching federal funds. Many of the programs have proven prevention benefits, and

in some cases, the cuts affect programs that receive more than seven federal dollars for each state dollar spent.

"We are leaving many millions of dollars of federal money on the table to save smaller amounts of state general fund commitments, and now the state is considering leaving hundreds of millions of dollars more. This is money California taxpayers have paid in federal taxes, perhaps now bound for other states," said Fellmeth.

Among the conclusions of the Children's Advocacy Institute's report are:

- The child poverty rate has risen 40 percent in the past 10 years, so that now 21 percent of the state's 7.8 million children live in extreme poverty.
- Half of all children under the age of two have not been immunized against a wide array of life-threatening infectious diseases such as polio, diphtheria-pertussis-tetanus and measles-mumps-rubella.
- By their 20th birthday, an estimated four out every 10 teenage girls will become pregnant. California has the highest number of teen parents in the nation.
- Twenty-three percent of California's children have no insurance coverage. More children are uninsured than are on Medi-Cal; and Medi-Cal health spending in two of the accounts that primarily serve poor children have dropped by 16.6 percent and 37 percent, respectively.
- At least 560,000 California children between the ages of five and 14 are "latchkey" children, meaning they are unsupervised before or after school, or both. Spending to ensure that licensed facilities that provide both child care and adult care meet established health and safety standards has dropped 10 percent per facility from 1988-89 to 1991-92.
- A mother with two children — the typical family receiving AFDC — now lives on benefits (AFDC and food stamps) that combined are 10 percent lower than the federal poverty level, which is \$11,570 per year. Average AFDC payments per child have dropped from \$306 per month in 1988-89 to \$301 in 1991-92, which is a 14.7 percent drop when the grant amount is adjusted for inflation. (These figures do not include cuts mandated in the 1992-93 budget

or in Proposition 165.)

"There is money and there are choices. Should we allow a businessman to deduct 80 percent of his lunch while a child who qualifies for a hot lunch goes hungry? The state contribution for that hot lunch is only 15 cents and the rest comes from the federal government at a seven-to-one match," said Fellmeth.

Wilson's allies staunchly defend his "prevention agenda." According to documents supplied by the Health and Welfare Agency, he has proposed increases in funding for several programs targeted at children, but the Legislature didn't agree to all of them.

Wilson's proposals in January 1992 included:

- \$70 million for the Office of Family Planning, the same amount as in 1991-92. The Legislature agreed to this amount. In 1990 more than 71,000 infants were born to teen mothers in California. The following year, his first year in office, Wilson raised the OFP expenditures 87 percent.

- \$54.8 million for Access for Infants and Mothers (AIM), a program that enables low-income women to purchase insurance for pre-natal and maternity services. The Legislature reduced funding for AIM by \$15 million. (The 1991-92 budget allocated \$54.8 million.)

- \$40 million for Healthy Start, a program that provides funding for school districts to provide health and social services for children. (The 1991-92 budget allocated \$20 million for Healthy Start.) The Legislature did not agree to the increase in funding and reduced the Healthy Start budget by approximately \$5 million.

- \$20 million for the Early Mental Health Counseling program, which provides matching grants to expand school-based counseling for kindergarten through third-grade students. (The 1991-92 budget was \$10 million, of which \$7.8 million carried over to this year.) The Legislature eliminated funding for the program this year.

- \$20 million to establish Check Up, a state-supported health-insurance program that would subsidize private health insurance for pre-schoolers whose parents are uninsured. Parents would have paid a \$25 annual enrollment fee, unless their income is less than 200 percent of the federal poverty level, in which case they wouldn't pay anything. The Legislature didn't fund this.

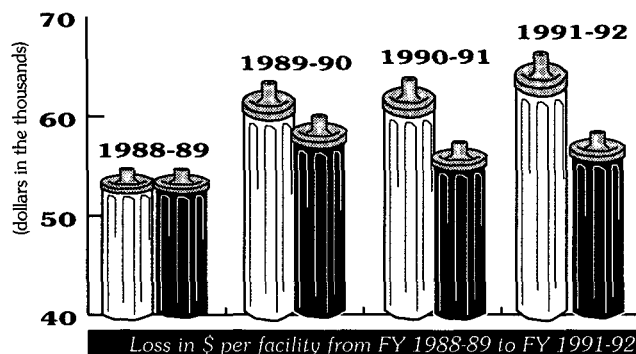
Children's advocates applaud some of Wilson's efforts, but challenge what they call the governor's "piecemeal approach" to prevention programs.

"There is a desire [by the governor] to have stand-alone programs to which he can attach his name when he runs for president," said Randy Reiter, research director of the Children's Advocacy Institute. "But that approach doesn't lead you to integrated services," he said.

Ellen Wicess, director of health policy for CAI, insisted that "the welfare cuts that the governor insisted on and the Legislature compromised on [in the 1992-93 budget] dwarf any other programs he's proposed." She noted that the governor and Legislature agreed to a 5.8 percent cut in welfare benefits during the budget negotiations this year.

"These are not programs we disapprove of, necessarily," Wicess said about Wilson's proposals. "But what is really needed is universal access to health care for all children."

Expenditures for state-licensed and county-licensed  
Adjusted total 1988 dollars



Loss in \$ per facility from FY 1988-89 to FY 1991-92: - 18%

The Community Care Licensing Division ensures that licensed facilities providing care and supervision meet established standards for the health and safety of those individuals served. Although the budget figures above include both child care and community care (24-hour residential care for some adults), two-thirds of the licensees are day care facilities  
Source: Children's Advocacy Institute

Many children's advocacy groups opposed Check Up because they feared it would result in a flight of health-care providers from another program, the Child Health and Disability Prevention program (CHDP). That program serves the state's poorest children (those living at less than 200 percent of the federal poverty level).

"CHDP has been starved for resources. It's the most consistent and comprehensive program we have, and yet only 25 percent of the children eligible for it are receiving [benefits from it] because out-reach and education have been inadequate, and the reimbursement rate provided to doctors has been terribly low. We think they should build on a program that works" before introducing new ones, Winess said.

Joan Hodgman, who has been practicing pediatrics at Los Angeles County/USC Medical Center for 46 years, said she has never seen such bleak conditions for children. Mothers without insurance are giving birth without having had pre-natal care, placing their children at risk for assorted, and sometimes preventable, complications.

Also significant is the fact that only 48.2 percent of California's pre-school age children have been properly immunized against an array of life-threatening diseases, and the percentage drops even lower among poor children, according to Dr. Shirley Fannin, director of disease control for the Los Angeles County Department of Health Services.

The danger of inadequate immunizations is no longer imminent; it's real. "We're not well-immunized," Fannin said. "We believe we're poised for another epidemic" to follow the measles epidemic of a few years ago, which resulted in 1727 hospitalizations and 41 deaths, and the less-publicized rubella epidemic of 1990, which resulted in 15 rubella-syndrome births. "We haven't had that many rubella-syndrome babies in 20 years."

Hodgman, director emeritus of Newborn Services at Los Angeles County Women's Hospital, drives home the point: "The next thing we're going to have is a polio epidemic," she said. "If you get a certain number of kids immunized, you're Okay, because the disease won't travel." But if immunizations fall below a certain percentage of the general popula-

# STATE-BY-STATE COMPARISON OF AFDC, FOOD STAMPS & HOUSING SUBSIDIES

in alphabetical order



MONTHLY  
COMBINED AFDC &  
FOOD STAMPS (1992)

FAIR MARKET  
RENTS (FMR) FOR  
2-BEDRM.APT. (1991)

COMBINED  
BENEFITS  
LESS FMR

RANK OF STATE:  
COMBINED BENEFITS  
LESS FMR

|                |       |     |     |    |
|----------------|-------|-----|-----|----|
| Alabama        | 441   | 390 | 51  | 38 |
| Alaska         | 1,184 | 550 | 634 | 1  |
| Arizona        | 620   | 570 | 50  | 39 |
| Arkansas       | 498   | 410 | 86  | 32 |
| California     | 850   | 750 | 100 | 30 |
| Colorado       | 636   | 480 | 156 | 22 |
| Connecticut    | 862   | 680 | 182 | 19 |
| Delaware       | 673   | 730 | -57 | 51 |
| DC             | 623   | 590 | 33  | 44 |
| Florida        | 595   | 520 | 75  | 33 |
| Georgia        | 572   | 500 | 72  | 34 |
| Hawaii         | 1077  | 700 | 377 | 2  |
| Idaho          | 607   | 540 | 67  | 35 |
| Illinois       | 649   | 610 | 39  | 42 |
| Indiana        | 580   | 450 | 130 | 24 |
| Iowa           | 685   | 470 | 215 | 13 |
| Kansas         | 697   | 460 | 237 | 7  |
| Kentucky       | 520   | 410 | 110 | 27 |
| Louisiana      | 482   | 470 | 12  | 46 |
| Maine          | 703   | 590 | 113 | 26 |
| Maryland       | 668   | 610 | 58  | 37 |
| Massachusetts  | 764   | 780 | -16 | 49 |
| Michigan       | 708   | 490 | 218 | 11 |
| Minnesota      | 759   | 530 | 229 | 9  |
| Mississippi    | 412   | 430 | -18 | 50 |
| Missouri       | 584   | 450 | 134 | 23 |
| Montana        | 659   | 480 | 179 | 20 |
| Nebraska       | 564   | 440 | 124 | 25 |
| Nevada         | 667   | 680 | -13 | 48 |
| New Hampshire  | 748   | 660 | 88  | 31 |
| New Jersey     | 691   | 650 | 41  | 41 |
| New Mexico     | 613   | 510 | 103 | 28 |
| New York       | 806   | 610 | 196 | 16 |
| North Carolina | 641   | 420 | 221 | 10 |
| North Dakota   | 647   | 440 | 207 | 14 |
| Ohio           | 524   | 440 | 184 | 18 |
| Oklahoma       | 625   | 440 | 185 | 17 |
| Oregon         | 744   | 510 | 234 | 8  |
| Pennsylvania   | 681   | 510 | 171 | 21 |
| Rhode Island   | 812   | 610 | 202 | 15 |
| South Carolina | 502   | 400 | 102 | 29 |
| South Dakota   | 670   | 430 | 240 | 6  |
| Tennessee      | 477   | 430 | 47  | 40 |
| Texas          | 476   | 460 | 16  | 45 |
| Utah           | 668   | 410 | 258 | 5  |
| Vermont        | 857   | 640 | 217 | 12 |
| Virginia       | 634   | 570 | 64  | 36 |
| Washington     | 541   | 530 | 11  | 47 |
| West Virginia  | 784   | 450 | 334 | 3  |
| Wisconsin      | 748   | 470 | 278 | 4  |
| Wyoming        | 638   | 600 | 38  | 43 |

\*Source: The Stanford Center for the Study of Families, Children and Youth's publication entitled: *Welfare Reform and Children's Well-Being: an Analysis of Proposition 165.*

tion, "You lose your protection," she said. More than 92 percent of school-age children have been properly immunized, Fannin said. But fewer parents are having their infants and toddlers immunized. "We're not comfortable for our under-school age children," she said.

(A bill that would require insurance policies that cover family illness to also cover immunization has been signed by the governor.)

If any single measure is likely to have devastating consequences for California's children, it is Proposition 165, say children's advocates. The measure would immediately cut welfare — a program specifically designed to protect the well-being of poor children — by 10 percent, followed by an additional 15 percent after the family has received support for six months (unless the mother is younger than 19 and regularly attending school, or if the parent is disabled).

Health and Welfare policy director Belshe said that much more than cuts are involved in the Wilson's measure — not including the portion that would strengthen the governor's budgetary powers.

"Wilson agrees that government has the goal to help people until they're self-sufficient again, to get them up on their feet," she said. But welfare in its current form has very few incentives to encourage people to find jobs, and even some strong disincentives, so more people are staying on welfare longer, she said.

**B**y cutting the combined value of cash grants and food stamps for a typical AFDC family from \$10,200 per year to \$9012 per year, as well as offering cash incentives to teenage mothers to stay in school, Wilson is applying some "tough love" to able-bodied adults who heretofore have not been pressed to find a job outside the home, and who might otherwise not stay in school.

"The administration's intent is not to punish women and children," Belshe said. "We want to re-orient this program so that it promotes work over welfare, self-sufficiency over dependence.

"It's part of our broader effort to restore the fiscal health of the state by holding the line on spending," Belshe added. "The AFDC caseload is growing at four times the rate of the population growth, and if we don't take action, funding for other critical programs for children will be jeopardized."

According to the independent legis-

lative analysts office, costs for the AFDC-FG (family group; generally single-parent families) program doubled from \$2.1 billion in 1980-81 to \$4.2 billion in 1990-91. That is an increase from 4.3 percent of general fund expenditures to 4.6 percent.

In addition, in 1990-91 the average monthly caseload for the largest category of welfare recipients (AFDC-FG, accounting for 80 percent of all cases) was about 600,000. That is a 37 percent increase over 1980-81, and it reflects an average annual growth rate of 3.2 percent. (In the same period, California's population grew by an estimated 2.3 percent per year.) But there has been a sharp caseload growth more recently: 6.1 percent in 1989-90 and approximately 6.9 percent in 1990-91.

In a February 1991 report, the legislative analysts' office concluded that the current AFDC grant structure, "When analyzed in conjunction with other sources of income and taxes, offers little incentive for recipients to work." The report further states that during the 1980s, California's caseload increased at a rate three times greater than the national average, and that of the 10 largest states, only Texas had a more rapid caseload growth than California.

But California's population growth from 1980-90 was 25.7 percent, compared to 9.8 percent in the United States. The analysts' report attributes much of California's welfare caseload growth to the increase in the number of women of child-bearing age; a population growth among two groups "with higher-than-average welfare dependence: Latinos and refugees," and an increase in the teen birth rate.

"The average length of stay [on welfare] is 17 months, and 40 percent of those individuals who leave [welfare] return within a year," said Belshe. "California does have significant births to teenage moms, and having a child as a child makes it extremely difficult to be self-supporting." That is one of the reasons the \$50 bonus to teen moms who stay in school was included in the measure, she explained. "From what we've seen in other programs, making progress in school is the greatest indicator of becoming self-sufficient."

Wilson's measure also eliminates the additional cash grant families get for children conceived while the family is receiving AFDC, until the family has not received any support for 24 months.

"The Wilson response to children is, 'Choose your parents better,'" said Michael Wald, a Stanford law professor, former chairman of the state Advisory Committee on Child Abuse and Neglect and author of a scholarly analysis of Proposition 155. The rationale behind the measure, he said, is that the only way to penalize parents is to make the children worse off. "The child didn't ask to be born to parents who couldn't afford them."

In addition, there is no evidence that the level of welfare payments has any bearing on fertility, he said. "The fertility rates of Mississippi and Texas, where benefits are one-fourth of California's, are higher than in California."

(The Wilson administration proposed this summer, and

the Legislature approved, a plan to increase child-support payments. The plan includes requiring employers to report newly hired employees to the Employment Development Department within 30 days, in case they owe child support; requires financial institutions to answer district attorneys' inquiries about absent parents' assets and allows child support to be paid by credit card.)

California isn't alone in grappling with transforming welfare from a "hand out" program to a "hand up" one, and the issue is being discussed across the ideological spectrum. Even Democratic presidential candidate Bill Clinton has made it part of his platform.

Established in 1935 as a safeguard for widowed mothers who were not expected to work, AFDC — the largest component of welfare — now has a different clientele. Most recipients are never-married mothers who don't work outside the home at a time when more and more women with children have entered the work force.

When President Ronald Reagan talked about making welfare recipients work for their money, calling it "workfare," even moderate Republicans were troubled. Many condemned the idea as a mean-spirited attack on single mothers and their children just because they were poor. But now a new breed of Democrat — Clinton, for example — is talking about the issue, and he has proposed cutting off cash benefits to welfare recipients after two years. After that, those who are able would have to take jobs, and if they couldn't find them in the private sector

would have to take public-service jobs. But his promise to make these jobs available to everyone commits him to creating a huge new jobs program, a step he says he's willing to take.

A jobs program is something Wilson's proposal doesn't mention, say opponents of Proposition 165, and at a time when one-in-10 people in California are out of work and looking for a job, it is unrealistic to expect even the enthusiastic job-hunter to land a position.

Measure proponents say they are trying to make parents responsible for their decisions, and to drop welfare grants so that work becomes a more attractive option. They argue that, with the increase in food-stamp payments, a parent wishing to make up for the drop in welfare payments would have to work only six to 10 hours per week at \$5 an hour. As for child care, some would be subsidized, or these new or returning members of the job force could turn to neighbors, churches and family members.

"We're not going to sit here and say it's really simple to do. You do need to be resourceful. [And] by saying, 'Well, there's no child care' is an easy out. There are publicly supported as well as informal arrangements that could be made," said Catherine Camacho, assistant secretary for program and fiscal affairs with the state Health and Welfare Agency.

Meanwhile, children can't wait. They become teenagers, young adults, adults — and new at-risk children replace them. And it must be remembered that children are not little adults. They are developing human beings, and the scars caused by poverty stay with them throughout life. ■

"There is money  
and there are choices.  
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businessman to  
deduct 80 percent of his  
lunch while  
a child who qualifies  
for a hot lunch goes  
hungry?"

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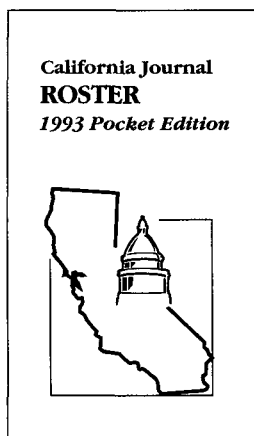
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A special session to nowhere

# Workers' compensation gets no reform



Illustration by Wendy Rudick Shaul

By Tupper Hull

**O**n any day in Southern California, on the gritty streets outside state unemployment offices, a giant, shameful hustle is played out over and over again. Workers, many recent victims of a seriously ill economy and many who speak little or no English, are invited to join with a cadre of unscrupulous doctors and lawyers to scam the state's workers' compensation insurance system.

Elsewhere, in tawdry newspaper advertisements and on cable television stations, workers are enticed into the scam. Stress on the job? Fired? Laid off? Call 1-800-MONEY-4-U.

When a worker bites, when he succumbs to the cajoling of a sidewalk capper or the authoritative voice of a television appeal, he or she enters into a murky underworld of subtle deceit and fraud. But for the small lies and vague twists of truth, the worker gets a paltry sum compared to the billions of dollars sucked out of the system by the doctors and lawyers who have benefited most from the broken and corrupt state workers' compensation insurance system.

Designed 75 years ago as a no-fault system to compensate workers injured

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*Tupper Hull is a Capitol correspondent for the San Francisco Examiner.*

on the job, California's workers' compensation insurance system has become a grotesquely bloated, inefficient boondoggle that is one of the costliest in the United States and pays some of the most meager benefits.

On average, California employers who buy commercial workers' compensation insurance pay less than \$4 for every \$100 of their payroll — fifth highest in the nation. (Approximately 56 percent of the state's 600,000 employers buy workers' compensation insurance from the 300 commercial carriers who write such policies in California. Another 19 percent purchase insurance from a state fund. The remaining 25 percent, most of them large companies, are self-insured.)

**B**ut insurance premiums are tailored to specific job categories and linked to the safety record of individual companies. Some employers, therefore, are paying workers' compensation insurance premiums that approach half their entire payroll. It is a burden the state's employer and business community says is killing them. When coupled with their other woes — the deepest and longest recession since the Depression, the near collapse of an overheated real estate market, and defense industry layoffs that will be a permanent loss to the state's economy — increasingly panicked employers say

unless the state takes quick and drastic steps, workers' compensation may be the instrument of California's economic demise.

At the same time, whom the system was intended to help are only slightly better served than are employers.

The present system was created between 1911 and 1917, when workers and employers agreed it was in neither's interest for every disputed workplace injury to end up in court before a judge or jury. In exchange for giving up their rights to sue for tort, workers got a system with fixed benefits, run by bureaucrats who by a stated doctrine of law called "liberal construction" were supposed to give them the benefit of the doubt on close calls.

Today, the system has become slow-moving and unresponsive. And the benefits it pays to workers — a maximum of \$148 per week for a permanent disability and \$336 per week for a temporary disability — are among the lowest in the nation. Depending on how they are measured, benefits here

are either the 35th lowest, according to the Association of Insurance Companies, or the 44th lowest, according to Governor Pete Wilson.

In addition to disability payments, the system pays for medical treatments for injuries suffered at the workplace and for vocational rehabilitation counseling and training.

It's difficult to find anyone who will say anything nice about the system. Wilson, in a recent radio address, called it "something that everyone agrees is broken — our state's fraud-ridden workers' compensation system."

"Workers comp has become little more than an organized scam for avaricious exploiters" is how the *Los Angeles Times* described the system.

A special competitive commission headed by former baseball commissioner Peter Ueberroth called workers' compensation a key component in the efficient job-killing machine California has created over the past quarter century.

Even Democrats, who have resisted changes in the system for fear they will end up costing workers, now concede it is in dire need of a major overhaul.

With opinions so uniform on the nature of the problem, why is the cure so elusive? Few issues have proved so vexing for the Legislature, so resistant to compromise, so vaccinated against the pressures of public opinion.

The reason is simple: Money. Very big money.

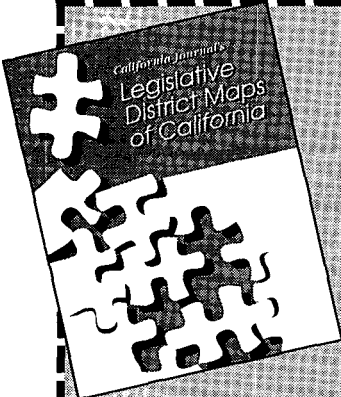
Doctors, lawyers, insurance companies and labor unions — the biggest players on California's political horizon — all have a major stake in the present system.

**D**octors who treated injured workers received 19 percent of the \$11 billion spent on workers compensation in 1990, or slightly more than \$2 billion, according to an insurance industry study. Hospitals and clinics, many of them owned by doctors, got another 10 percent of the pie, about \$1.1 billion. Doctors who prepared reports on the degree and cause of injuries used during litigation over workers' compensation claims got another \$308 million.

Workers, for whom the system was created, got 29.5



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percent or slightly more than \$3.2 billion. Of that, \$1.5 billion was paid in permanent partial disability benefits and \$1.2 billion was paid to workers who suffered temporary disability. Another \$407 million, 3.7 percent of the workers' compensation pie, was paid to train injured workers for alternative occupations, and \$165 million was paid in death and permanent total disability benefits.

Insurance companies pulled \$3.1 billion out of the system in overhead, profits, taxes and lawyer fees.

They all want reform — at someone else's expense. Individually, their campaign contributions have bought enough muscle to block most reforms they fear will kink their pipeline to the \$11 billion workers' compensation system. When one or more of them join forces in a temporary alliance, they are unbeatable.

The California Medical Association's political action committee contributed \$757,000 to legislative candidates during this year's primary election, more than any other PAC, according to the secretary of state.

"The money in this system is hemorrhaging into special interest pockets," says Michael Marks, a San Francisco lawyer who represents employers and insurance companies in workers' compensation lawsuits.

"The Legislature can't deal with this issue because true reform would gore everybody's ox to some degree," said Ruth Holton of California Common Cause.

**W**ithin this context, Governor Wilson has waged an unremitting, two-year campaign to change the myriad laws and regulations governing workers' compensation and the huge bureaucracy attached to it. He has shrewdly fueled the business community's anxieties about the state's economy into a kind of single-minded hatred of the present workers' compensation system. When he called state lawmakers into special session October 8th and 9th, he made no attempt to conceal his strategy. He hoped to use the hot-house pressures of an approaching election and the uncertainty of legislative districts recently altered dramatically by reapportionment to force Democrats to abandon their historic friends and supporters — labor and trial lawyers — and approve his reforms.

Indeed, in the sort of in-your-face manner that has come to characterize Pete Wilson's relationships with the Legislature, Wilson presented lawmakers with a complex package of reform proposals he said he wanted adopted without change or committee hearings. Either change workers' compensation his way or he would do his best to change the makeup of the Legislature. It was the kind of brute-force tactic that worked for him during the battle to redraw legislative districts and during the two-month-long budget battle.

"This guy has nerves of steel," said GOP Assemblyman B.T. Collins.

Yet this time it didn't work. Like some giant Rube Goldberg machine, Wilson's special session generated a lot of heat and wild motion but produced little. It ground to a

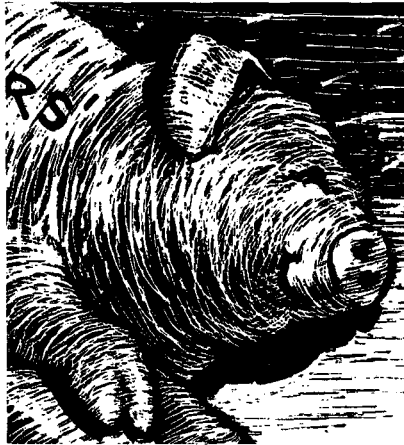
halt after Democrats made substantial changes to Wilson's plan. Wilson, two hours before the Assembly was scheduled to open debate on the amended plan, said he would veto it. He was not interested in seeing the compromise plan or in waiting for the Senate to make its changes. Assembly

Speaker Willie Brown said Wilson's unprecedented veto threat proved the governor was never serious about reform and that his true agenda was nothing more than political guerrilla theater intended to embarrass Democrats one month before Election Day.

Indeed, Democrats noted Wilson didn't even bother to stay in town for the crucial second day of the special session. He spent the day in Los Angeles, kicking off a bilingual campaign against drunk driving and attending a fund-raiser for GOP Senate candidate Bruce Herschensohn.

But the session did force an intensive and exhaustive look at workers' compensation for those lawmakers, lobbyists, and others with enough stamina to sit through the crash course. What it

showed, to the surprise of some of the businessmen and women who had come to the Capitol in support of the governor, was that Wilson's plan treated doctors and insurance companies far more favorably than it treated employers. It showed that for all his tough talk about special



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interests, Wilson had made sure the special interests that had supported *him* were taken care of.

Under the governor's plan, insurance companies would have been able to add surcharges of any amount to employers' premiums at any time. It would have eliminated the insurance commissioner's authority to regulate those surcharges and, despite his pledge to repeal existing law guaranteeing insurers a fixed rate of return, would have replaced that law with another rate system that, in the view of some experts, would have favored insurers.

**A**nd this was the proposal Wilson demanded legislators adopt without change, the plan he said he would not negotiate, the bill he insisted needed no legislative hearings. During one telling moment, a business owner who had traveled to Sacramento to demand passage of the governor's plan, after sitting through hours of testimony before the Assembly Insurance Committee, said he was glad for the hearings. He had learned much from the process, he told lawmakers, and he thanked them for their efforts.

Another businessman stalked angrily from the hearing room after telling lawmakers he would never return to the Capitol to make his voice heard. "I won't be a part of this anymore. I'm tired of being used as a pawn by doctors, lawyers and insurance companies," he said.

Said Democratic Assemblyman Steve Peace of Chula Vista, "This is the best job of snookering the employers of California the insurance industry has ever done."

Wilson's plan specifically exempted law enforcement — another group of generous financial supporters — from tough restrictions he wanted imposed on stress claims. This

despite the fact cities and counties say easy-to-obtain stress benefits claimed by policemen, firemen and paramedics are among their most difficult costs to control. And the plan was far kinder to doctors than had been earlier proposals. It gave doctors considerable leeway to charge fees that exceed the system's limits, and it imposed weakened restrictions on self-referrals that the powerful California Medical Association found acceptable.

Wilson's plan was anathema to organized labor, which has never supported him. It would have done away with the liberal-construction doctrine, one of the key concessions labor won when it agreed to buy into the workers' compensation system 75 years ago. It would have made it much harder for workers to qualify for benefits and would have required in many instances that they obtain medical treatment from doctors selected by employers. It also would have made it vastly more difficult for workers to obtain benefits for a wide range of occupational illnesses such as those produced by stress or caused by exposure to toxics.

But perhaps most troubling to workers and their supporters in the Legislature was Wilson's scheme to increase weekly benefits only after employers had received a verifiable reduction in gross premiums of \$1 billion. That provision was the plan's poison pill. Democrats would never support such a scheme. There were too many ways to hide the genuine savings the plan was likely to generate. An insurance company that found itself paying less in claims could simply increase its dividends to stockholders or find some other way to increase its overhead expenses.

Worse, if the economy improved and companies began expanding their workforces — if workers' compensation was truly the drag on economic recovery that Wilson claims — the total amount paid in premiums would rise, not drop. Why should workers, who already have given up their rights to sue their employers, now give up further rights without receiving a specific and immediate benefit increase in return, asked representatives of organized labor?

And Democrats demonstrated a willingness to meet Wilson more than half way. Of the 33 amendments the Democrat-controlled Insurance Committee made to Wilson's plan, all but five were acceptable to Assembly Republicans.

In the end, however, there was a certain symmetry to the spectacle, a kind of reassuring familiarity in the way the forces of money and politics played themselves out to exhaustion. Throughout the abbreviated, two-day session, Wilson took every opportunity to highlight his differences with the Democrats and to ignore the remarkably broad areas on which there was agreement. He seemed anxious to continue his attacks on Democrats as he pursues his goal of a Republican majority in the Assembly. The special interests that have fed at the trough of workers' compensation will no doubt return some of their gains to favored candidates during the final days of this bitter political season.

**A**nd workers, at least those who have had the misfortune to be tossed into the grinding machinery of the workers' compensation system, will remain suspicious and angry at those who seem to fare so much better than they do, for the essence of this debate is a kind of class warfare. Workers mistrust the motives and intentions of their bosses. Employers secretly believe all their workers are out to cheat them. And no system, political or industrial, survives and thrives in such an unhealthy environment. 🏠

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**AIRLINE UPGRADES**

## Slush fund pays for officeholders' "ordinary and necessary expenses" *(...whatever that is)*

**By Herbert A. Sample**

Imagine you had access to a \$10,000-a-year expense account that you could use in just about whatever way you wanted — with almost no oversight. If this sounds like a great deal, run for statewide office, win, and become entitled to your part of the constitutional officers' fund.

That's a little-known pot of taxpayer money that annually provides 10 grand each to the lieutenant governor, attorney general, treasurer, controller, secretary of state, superintendent of public instruction and chief justice of the state Supreme Court. It's been available to most of these statewide officeholders since the mid-1960s. Over the years, those officials have used their expense accounts for all sorts of purchases, some seemingly appropriate and others seemingly questionable. The law that governs the accounts is vague and the agency designated to review the expense claims hardly ever kicks one back. Consider:

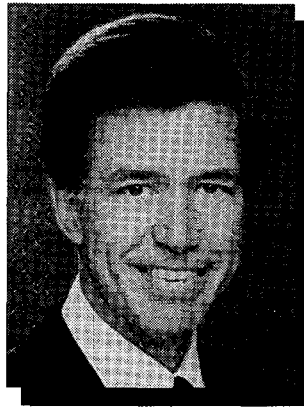
- March Fong Eu, the secretary of state since 1975, spent \$8286 from her account between January 1990 and June 1992 on meals. Anthony Miller, her chief deputy, contended that

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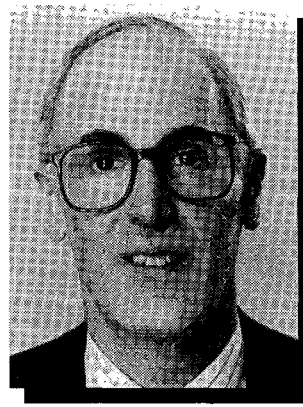
*Herbert A. Sample is a reporter in the Capitol bureau of The Sacramento Bee.*



Kathleen Brown



Gray Davis



Bill Honig



Dan Lungren

each of the more than 140 meals was justified because Eu met with business leaders from inside and outside the state.

**E**u also spent \$26 last year to buy "Capitol Punishment," a book written by the former wife of an assemblyman that was widely considered to be a fictionalized account of real-life legislators and events. Miller said Eu needed it to provide anecdotes for speeches on political reform.

- Dan Lungren, who was elected attorney general almost two years ago and serves as an *ex officio* member of the state Peace Officer Standards and Training Commission, spent \$60 in public funds in the last 20 months to help buy plaques for retiring panel members even though most other commissioners spent their own money to help purchase the awards.

- State Supreme Court Chief Justice Malcolm Lucas spent \$800 from his account last year to buy coupons to upgrade his airline tickets from coach to business class. When he was controller, Ken Cory spent \$255 for memberships in airline clubs.

- Bill Honig, the state superintendent of public instruction since 1983, spent \$1852 between April 1984 and October 1991 on flowers, usually to thank his secretaries or other staffers.

- Leo McCarthy, the lieutenant governor since 1982, spent nearly \$875 between late 1987 and late 1991 on flowers, including birthday roses for his wife, Jacqueline, in October 1987. And Thomas Hayes, state treasurer from 1989 through 1990 and now director of the state Department of Finance, bought roses in November 1990 for Donna Lucas, the manager of his unsuccessful campaign for treasurer that year.

- Gray Davis, elected state controller in 1986, has spent \$325 from his account on charitable donations since taking office, which he said was a better use of the money than taking someone to lunch. Elizabeth Whitney, the acting state treasurer from mid-1987 to early 1989, made \$214 in contributions.

The constitutional officers fund was created in 1967. Then-Assembly Speaker Jesse Unruh pushed a measure

through the Legislature at the behest of then-state Treasurer Ivy Baker Priest. She had complained to Unruh that she could not entertain foreign dignitaries or business people because she had no budgeted funds for that purpose, according to Whitney, who was a top Unruh aide when he was state treasurer from 1975 to 1987.

"So Jess started it as a favor to Ivy," Whitney said. Priest died in 1975; Unruh died in 1987.

The original statute granted \$5000 a year to the officeholders. The law has been amended twice — in 1984, legislators increased the accounts to \$10,000 each, and in 1988, the chief justice of the state Supreme Court was added

to the list of officials entitled to an account. The state insurance commissioner, which became an elected office in 1990, is not listed in the law and therefore is not granted an expense account.

The governor's office also is not listed in the law but instead receives a \$40,000 lump-sum payment from a "special contingent expense" account authorized in the annual state budget bill. The current governor, Pete Wilson, has refused requests to review past expenditures from his expense account, claiming that it is not subject to open-records laws.

He instead offered a summary of his 1991-92 expenditures.

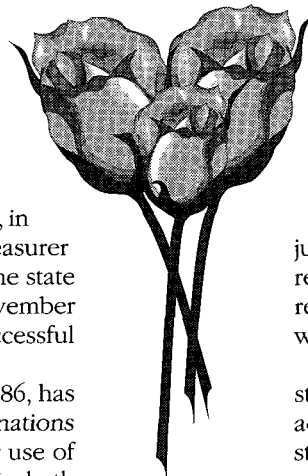
Lucas, the chief justice, also refused a request to examine his account in detail.

Court clerk Robert Wandruff said in a letter that judicial-branch agencies are exempt from open-records laws. The chief justice, he said, is only required to provide a summary of expenditures — which he did.

State Treasurer Kathleen Brown is the only statewide officeholder who chooses not to use her account. Brown, who took office in January 1991, stopped using it in March because of the state's worsening budget crisis and the vagueness of the authorizing law, spokesman Michael Reese said.

"It is overly broad," said Reese. "One person's interpretation of necessary expenditures is not necessarily going to be another person's interpretation. And rather than muck

***Bill Honig, the state superintendent  
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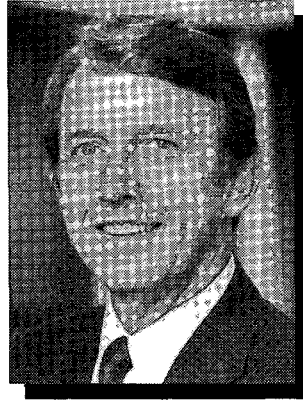




March Fong Eu



John Garamendi



Leo McCarthy

around in that gray area, she made the decision herself to stop using the fund."

**B**rown reimbursed the state about \$3922 for past expenditures. Reese said any expenditures that in the past would have been covered out of Brown's account are now paid from her campaign fund.

But other officeholders insisted that the expense accounts are necessary.

Dave Puglia, Lungren's spokesman, said the fund increases the attorney general's accessibility to employees, government officials and private citizens by allowing him, for example, to host open houses. "There has to be some ability

of the attorney general to be more than a stuffed shirt behind a desk," Puglia said. "So in a general sense, his activities and responsibilities do in fact necessitate some sort of expense account, which is what this is."

In December, Lungren spent nearly \$3600 of his allotment for an open house at his home.

McCarthy spokesman Ron Gray argued that broad

discretion is necessary because officeholders have responsibilities that range beyond their official duties. "The fund was set aside specifically for expenses of a discretionary nature that relate to elected officials' less-specific duties, as in ceremonial functions," he said.

But such discretion occasionally lets officeholders circumvent other spending rules. For example:

- Honig and Lucas both submitted claims to their accounts for reimbursement of hotel costs that exceeded the state's per-diem limit. Honig was reimbursed about \$2000 between 1983 and last June; Lucas received \$220 last year. In effect, what costs the two officials could not recover from one pot of state money, they recovered from another.

- Lungren donated the \$60 from his expense account toward the Peace Officer Standards and Training Commission plaques after the panel's chairman sent him a memo explaining that "the state will not fund any portion of these mementos" out of the commission's budget.

Part of the problem is that the COF law and supporting

documents are too vague. The law, Government Code Section 11034, limits use of the allowances to "ordinary and necessary" expenses. But there is no definition of that term.

A 1967 opinion by then-Attorney General Thomas Lynch and a 1977 follow-up letter to statewide officeholders from then-Controller Ken Cory set some guidelines for "ordinary and necessary" expenses. But neither

document established a clear definition. In fact, Lynch's opinion stated that while it was the duty of the controller's office to review claims, "the fact that the [officeholder] has presented a verified claim is *prima facie* indication of the regularity of the expenditure."

Lynch added, "The good sense and responsibility of the respective [statewide] officers will limit their claims."

**T**hat leaves the unit in the controller's office that is responsible for reviewing these claims in something of a quandary. "We just feel that it's up to them [the officeholders] to screen what they use the money for," said Jeff Braun, head of the controller's claim audits bureau.

But even when there are some guidelines, they go

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unheeded. For instance, Cory's 1977 letter recommended that claim forms provide a brief explanation of the nature and purpose of the expense. But Unruh and his successor, Whitney, used the same phrase on virtually every claim form — whether for meals, an office appliance or anything else: "Ordinary and necessary entertainment expenses involved in connection with my duties as state treasurer."

**A**nd Cory himself, on claim forms he submitted for reimbursement from his expense account when he was the state controller, used the same phrase to describe meals: Breakfast, lunch or dinner "with business associate to discuss matters pertaining to the State Controller's office."

There was no indication in state files that Cory's claims — or Unruh's, or Whitney's — ever were challenged or rejected by the state controller's office. Similarly, there is no record that the controller's office ever questioned or denied a claim from Eu for her meals, even though the claim forms nearly always

***There was no indication in state files that Cory's claims — or Unruh's, or Whitney's — ever were challenged or rejected by the state controller's office. Similarly, there is no record that the controller's office ever questioned or denied a claim from Eu for her meals, even though the claim forms nearly always contained the same vague description: "meal for officer and guests."***

contained the same vague description: "meal for officer and guests."

Eu, according to claim forms, spent \$2145 on various meals in the first six months of this year. The largest tab was an \$877 dinner in February at San Francisco's World Trade Club with Hong Kong business leaders.

Miller, Eu's chief deputy, explained that Eu eats out often because her husband lives abroad and she has little home life. "She doesn't go home to her husband. He's not there. ... Every night of the week, typically, she's doing something. If it involves a business-related meal, then it's properly charged, we believe, to the COF [constitutional officers' fund]," Miller said.

He further explained that Eu has an avid interest in Pacific Rim trade, is an *ex officio* member of

the state World Trade Commission and was the state's chief of protocol under Governor Jerry Brown. Foreign visitors "see 'secretary of state' and they think of Henry Kissinger or somebody," Miller said.

State World Trade Commission records, however, indicated that Eu and the other *ex officio* members of the panel have missed most of its meetings in recent years, according to the panel's executive director, Gregory Mignano.

In addition to "Capitol Punishment," Eu purchased other books with her account, including "The Joy of Painting." Miller said it improved Eu's calligraphy and Chinese brush painting — talents she uses to draw official commendations. Paying an artist to draw the documents would cost more money, he said.

The \$41 McCarthy spent for his wife's roses was reimbursed by his campaign committee last April, more than four years after the purchase and while McCarthy was in a close race for the Democratic nomination for the six-year U.S. Senate seat. Hayes personally reimbursed the state \$50, plus \$10 interest, for the flowers he bought Lucas after a reporter asked about the purchase recently. Hayes and a McCarthy spokesman said the purchases were inadvertent errors.

**M**ost of the statewide officeholders or their aides said they disliked the notion of reducing the amount in each account or adding more restrictions to its use. Davis, the state controller, said, "There's no question you could limit the use of those funds," he said. But "every elected official is accountable — for every expenditure he or she makes — to the voters. ... I think that is probably more than adequate protection for the people of the state."

Even Brown, the state treasurer who chose to discontinue use of her expense account, hesitates on the question. "These are relative things," her spokesman, Reese, said. "One person's comfort level is not necessarily someone else's. She's not going to presume that what has made her feel uncomfortable should be the case for other officeholders. The public should be the only judge of that." 🏛️

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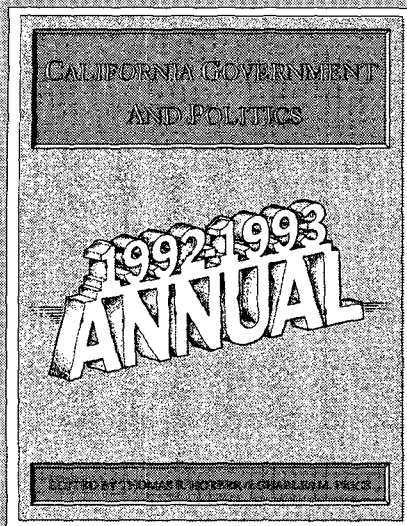
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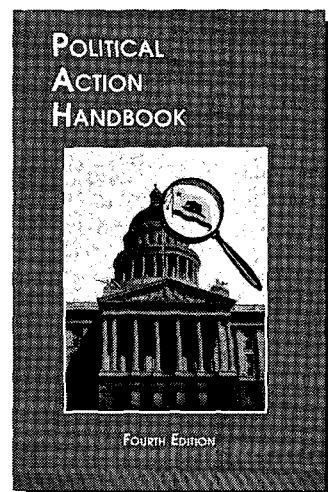
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## POLITICAL ACTION HANDBOOK

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# Signing for fun and profit:

## *the business of gathering petition signatures*

BY CHARLES M. PRICE



illustration by Wendy Rudick Shaul

**W**ell, they're back. After a brief respite from initiative politicking in the June 1992 primary, a small platoon of signature-qualified propositions invaded the November 1992 ballot (Propositions 161-167). While dozens of initiatives were launched by hopeful proponents, only these seven made it.

Why did they succeed where all others failed? Professional petitioning.

The seven were all jockeyed to ballot status through the efforts of California's only two "out-in-the-streets" signature companies: Kimball Petition Management of Los Angeles, and American Petition Consultants of Sacramento.

All it would have taken for the failed initiatives to qualify was money. Had their backers the money to hire Kimball or American, their proposals, too, would have reached the ballot. Qualifying initiatives using only volunteer activists and shoestring budgets is very difficult. Qualifying an initiative is expensive and lately seems to be the exclusive province of the well-heeled. For instance, according to the secretary of state, 80 percent of the money raised to qualify November's seven initiatives came from contributors giving more than \$10,000. (Not only that, the first petition measure to qualify for the June 1994 primary ballot — the school choice or 'voucher' initiative — also used paid petitioners.)

The qualified initiatives and their professional petitioners are:

| Prop | Title                       | Signature Company |
|------|-----------------------------|-------------------|
| 161  | Assisted Death              | American          |
| 162  | Public Employees Retirement | Kimball           |
| 163  | Snack Tax Elimination       | Kimball           |
| 164  | Congressional Term Limits   | American          |
| 165  | Budget and Welfare Reform   | American          |
| 166  | Health Care                 | Kimball           |
| 167  | State Taxes                 | Kimball           |
| ???  | School Choice               | American          |

Brothers Kelly and Fred Kimball Jr. are managing partners of Kimball Petition Management, which their father founded in the 1960s. While Fred Senior was an arch-conservative who helped qualify many right-wing issues for the ballot (for example, Proposition 6 of 1978, which would have allowed school districts to fire homosexual teachers), Kelly and Fred Junior have shifted their company's ideological focus to more mainstream and even some liberal issues. Thus, in November 1992 the Kimballs worked on petition campaigns for Democratic-leaning interest groups such as state employees, the Tax Reform Association and the California Teachers Association. Since the late 1960s, Kimball has qualified dozens of petitions for state and local ballots.

American Petition Consultants also is the province of two brothers — Mike and Bill Arno. Mike is president, while Bill serves as director of operations. Their firm has qualified mainly Republican-conservative issues over the last decade, however American did qualify the liberal-leaning "Death with Dignity," for this fall. Said Mike Arno, "Philosophically,

*Charles Price is a professor of political science at California State University, Chico, and a frequent contributor to California Journal.*

I'm opposed to [Proposition 161], but it's a social issue that ought to be decided by the people, not the Legislature."

Despite the fact that they are competitors, competition in the signature-gathering business is not quite like competition in the personal computer business. And the links between the Kimballs and Arnos go back many years. Mike Arno's wife grew up as a neighbor of the Kimballs in Southern California. She persuaded Fred Senior to give Mike his first chance in petitioning as a crew chief for Kimball in the early 1980s, and he learned the business well. Over the years on a few occasions, when deadlines are imminent, Kimball and American have sometimes subcontracted with each other for a certain number of signatures. They've been friendly competitors — until this year.

**C**learly, Kimball and American dominate initiative qualifying these days. Between 1982 and 1992 nearly 75 percent (48 of 65) of all of the initiatives on the California ballot have qualified through the efforts of one or the other of these two companies. Once hired, they virtually guarantee their clients' ballot status (each has a nearly a 100 percent success rate). Both firms also earn considerable sums qualifying initiatives in states like Oregon, Nevada, Washington, Michigan, Ohio, Oklahoma and Colorado. And, since the collapse of Communist rule in Eastern Europe, each firm has done consulting work in the newly emerging democracies there. Indeed, another Arno brother, Peter, runs their company's St. Petersburg/Moscow operations, and plans are afoot to establish a new office in Minsk.

Paid petitioning wasn't always needed to get a measure

on the ballot in California. In the early years, after the initiative was placed into the state Constitution by reformist Progressives in the 1910s, qualifying could be handled by volunteers because proponents had 150 days to collect fewer than 50,000 signatures — a number based on a certain percentage of the total vote cast for governor at the most recent election (5 percent for a statute; 8 percent for a constitutional amendment).

But as California's population increased massively during the Great Depression and after World War II, collecting and processing the hundreds of thousands of signatures needed within the 150-day circulation period became a logistical nightmare — hence, professional petitioning. And since 1990, when the Colorado Supreme Court refused to review a lower court decision that states could not ban paid petitioning because it limited free speech, paid petitioners have truly come into their own.

Through the early 1980s the paid petitioning process went something like this:

- Kimball or American is contacted by an initiative proponent, and the two sides would settle on a price for collecting a specified number of paid signatures — 100,000 or 200,000, for example, with the remainder usually gathered by volunteers.

- The measure then is submitted to the attorney general's office, which assigns it an official title and summary and looks over the text to make sure it's above board and legal. The attorney general laterals it to the secretary of state's office, which assigns circulation and signature-verification deadlines.

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sent to the Kimball or American crew chiefs around the state.

- Crew chiefs hire reliable solicitors by contacting people from previous campaigns and by advertising for new ones in the classifieds.

- Crew chiefs brief their solicitors on a summary of the main arguments for the initiative and point them toward the best places to find signatures — for instance, shopping centers or where people are waiting in line.

- Crew chiefs also teach solicitors how to persuade a reluctant prospect by saying, "This doesn't mean you agree. It's just to get the measure on the ballot so the people will have a chance to vote on it."

- Solicitors turn in their signatures, receiving 25 to 35 cents per name. Crew chiefs earn 5 to 10 cents for all signatures collected in the city or area.

- Finally, proponents turn their accumulated signatures in to local county clerks for validation and tabulation.

Although paid petitioning in the 1990s follows a similar procedure, there are some interesting new twists in the business.

- **Independent subcontractors:** In the old days, American and Kimball had loyal crew chiefs who worked only for one or the other. But no more. As American's Mike Arno noted, "Today, our crew chiefs [located in most of the state's large cities] are independent subcontractors. In the old days, we hired a lot of 'mom and pop' operators; for example, housewives who ran petition drives out of their homes. These days our subcontractors all have their own businesses. We try to buy the best contractors available.

"Sometimes, they're ones that have done a lot of Kimball work. These people are free agents and negotiate their best price. So, too, the solicitors are independents. A crew chief says, 'I'll give you 35 cents per signature,' and a solicitor says, 'I want 45 cents, or I won't do it.'"

Moreover, Kelly Kimball noted, "If you're slow in getting signatures, you've got to raise the price for the solicitors. It's a stock market out there. Some circulators will delay turning in their signatures on one of the petitions they're carrying, assuming the price will go up. It never goes down. We raise the price [per signature], and suddenly thousands of signatures come in. They bought low and sold high."

- **Multiple petitions:** To make money in petitioning these days, Kimball and American must have packages of three or four or five initiatives — not merely a single initiative — to entice the best petition subcontractors to work for them. George Gorton, Governor Pete Wilson's campaign manager who was spearheading the governor's budget-welfare reform initiative qualifying effort in 1991, failed in his attempts to negotiate contracts with petition subcontractors. The subcontractors want packages of initiatives because the more petitions, the more money and the better enticement for successful solicitors. In addition, subcontractors prefer to do business with known quantities. Wilson's forces eventually sought out Arno to collect the signatures for what has become Proposition 165.

Said Kimball: "There is no limit to what these people [solicitors] can carry."

Arno, in a similar vein, added: "The most petitions I've ever seen one solicitor handle was 13. He had every initiative ... on an ironing board. People would walk along the board, and he'd say, 'Are you for this one? ... Sign here. This one? ... Sign here. This one?' Some solicitors can make as much as

\$30 or \$40 dollars an hour. Several have made \$50,000-\$60,000 in a five-month period."

- **Initiative awareness:** Before 1978 and Howard Jarvis' property-tax slashing Proposition 13, the initiative process was not well understood by most interest groups. To attain policy objectives, these groups preferred to concentrate on lobbying and providing campaign contributions to candidates. In the 1990s, however, those same interest groups (and elected officials, as well) are keenly aware of the initiative option, and of the ability of Kimball and American to collect hundreds of thousands of signatures. Consequently, the petition business has picked up steam. In addition, American and Kimball advertise in various political journals (including *California Journal*) to publicize their accomplishments.

However, neither Kimball nor Arno say they try to talk people into filing an initiative — usually. Kimball acknowledged that he put together the Lottery initiative as a pro-active effort. "We were looking for something we could make money on, and somebody who would fund it," Kimball said. "But, there are just too few issues out there like that."

- **Validation:** Another difference between paid petitioning today and yesterday is that the two companies place much more emphasis on collecting *valid* signatures. As Arno explained, "Each of us have computers with lists of all registered voters, and we can do random-sample verifications of signatures brought back by our solicitors. As the petition business has developed, subcontractors don't want to get a reputation for turning in poor work. If they fall below

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our quality control standard, I can back charge them.”

• **Direct mail:** In the early 1980s it looked as if direct-mail companies might supplant street petitioning as the wave of the future. Direct-mail petitioning still is used to supplement some petition drives, but it isn’t the main signature source these days. Kimball, more pessimistic than Arno about direct-mail petitioning, warned that direct mail “just flat out doesn’t work very well. It worked for Howard Jarvis, and it worked somewhat for [Paul] Gann, but on a limited basis. Many of the people on the Jarvis lists were not young, and some have since died. A direct-mail piece is tremendously expensive. If you don’t get a decent contribution return rate, you’re spending \$10 to \$15 to \$20 per signature.”

• **Motivations of initiative proponents:** On the contemporary scene, initiatives are no longer proposed simply as a last resort by interests failing to get their way in the Legislature. These days some issues are introduced via the initiative process. In addition, some initiatives dealing with the same issue on the same ballot are designed to confuse voters rather than to be approved. Some initiatives are put on the ballot to siphon money from conservative Republicans or liberal Democrats. As a result, the process has become more complicated and Byzantine.

• **The attorney general:** Finally, according to Kimball, the present attorney general, Republican Dan Lungren, has been exceptionally partisan. “The [initiative] summaries his office does contain his political philosophy. They’re like campaign literature for the opposition.” For instance, attorneys representing proponents of Proposition 167 (the so-called “tax the rich” initiative) had to go to court to get the attorney general’s “partisan” summary modified. American’s Arno, however, disagrees with Kimball’s assessment.

**I**t is still possible for dedicated activists to qualify initiatives in the 1990s, but doing so is a formidable undertaking. Perhaps, the prototype of the idealistic cause/volunteer petitioning is Ken Masterton of Masterton and Little of Bolinas. Over the last few years, Masterton has directed successful qualification efforts for four different environmental initiatives for the Planning and Conservation League (Proposition 70 of June 1988; Propositions 116 and 117 of June 1990; Proposition 130 of November 1990). In addition, he was successful with Proposition 99 of November 1988 (the tobacco-tax) and Proposition 134 of November 1990 (the alcohol-surtax). While more emphasis is placed on getting volunteer signatures in Masterton’s efforts, on most of his petition drives some paid signatures also are collected (indeed, two-thirds of the signatures he collected for Proposition 130 were paid). In addition, to secure his freebie signatures, Masterton must pay coordinators to organize the volunteer solicitors, and it costs thousands just to print all the petitions that will be needed. According to Masterton, the typical volunteer effort to place a statute on the ballot will cost about \$250,000 to qualify. Thus, initiative qualifying, even those using mostly volunteer signature collectors, is expensive.

Relations between American and Kimball have cooled recently. The reason: the controversy over the qualification effort for the school-choice, or voucher initiative. Arno was hired by the initiative’s proponents to collect the necessary signatures to place the measure on the November 1992 ballot. However, in a unique counter-strategy move, the California Teachers Association hired Kimball as a consultant to work *against* qualification.

“Our strategy in the anti-qualification campaign was to arm the potential signer with the information needed to say ‘no,’” said Kimball. “If a well-educated teacher can explain why an initiative is bad to potential signers, this can be very effective. It wouldn’t have worked to have our circulators do this. Teachers were ideally suited for it.”

Arno, not surprisingly, saw it differently. “On the one hand, you had teachers who saw the choice initiative as a ‘life or death’ issue and, on the other side, you had people trying to earn money collecting signatures. Many of these people were in agreement with the philosophy of the choice initiative. It’s a very frustrating thing to have someone jump in your face when you’re trying to collect signatures. We had reports that potential solicitors were offered money not to get signatures, or were threatened if they tried to do so. They used Kelly to locate where all of our people were. If we fail to qualify an initiative, this obviously benefits Kelly.”

**A**rno is convinced that some opponents of the voucher initiative purposely signed the petition more than once to sabotage the effort. “Our duplicate rate was abnormally high,” he complained. “Thirty-two people in San Diego County signed the petition more than 10 times and several signed it more than 20 times. This was not an accident.” While Arno admits that he ran anti-signing efforts in several local contests, he stated he would not do so again because “it diminishes the process.”

Arno blamed the anti-signing campaign and sabotage for the voucher initiative’s failure to meet the deadline for the November 1992 ballot. Rather than qualify through a random sampling procedure, every signature had to be verified. The process took so long that the deadline for November 1992 passed, although the measure did qualify for the June 1994 ballot. Both Arno and Kimball viewed this delay as a significant blow to the school-choice initiative. Kimball felt that momentum for the issue will slow, and now the CTA will have two years to raise funds to defeat it. Moreover, teacher campaign money that would have flowed into the effort to defeat the proposal can now be used to help elect allies to the Legislature. According to Arno, “The sad part about all of this is that the CTA basically cheated and got away with it. They know they overstretched the rules.”

Both Arno and Kimball are supportive of some reforms to improve the initiative process. Kimball noted, “If it were in my power, I’d really enforce the single-subject rule. I’d also like the system reformed so that voters would be asked a simple question, ‘Do you want a state lottery? Yes or no?’ And, if a majority of voters say ‘yes’ then the Legislature would be required to implement the law. We should not have to have voters wade through 20 pages of legal text describing an initiative. People don’t have the time or energy for this. My proposal would be a sort of an indirect initiative.”

But Arno wants the process to continue. “When I’m invited to speak to college classes,” he said, “I always ask this question: ‘Were there too many initiatives on the last ballot?’ ... ‘Which of them would you have like to eliminate from the ballot?’ There is always much disagreement on this. ‘How many bills were considered by the Legislature last year?’ Most think a few hundred. I tell them, ‘More than 6000. Can you name five of them?’ And, they can’t. But they know what the initiatives were. Finally, I ask, ‘Who do you trust more — you making the decision or your legislator?’ Overwhelmingly, they want to make the decision.” 

## Trading pollutants

# Sacramento's experiment to clean up an air most foul

By Peter Asmus



illustration by Karen Fulk

**T**he debate over how best to clean up the nation's polluted air has focused on California's much-maligned southland and the South Coast Air Quality Management District's shift to a market-based approach.

Basically that approach allows those who produce pollutants to trade pollution "credits" back and forth. For example, two businesses operate in the same general area, and both spew the same volume of pollutants into the air. But Business One has the ability to reduce its pollutants below the required level by installing an scrubber. It would cost Business Two a great deal of money to reduce its pollutants to a similar level. But for a lesser amount of money, Two can help pay for One's scrubber. Thus, One and Two between them meet air-quality standards, even though the amount of pollutants from Two has not been reduced.

If the truth be known, however, Sacramento is ahead of the curve in developing a viable market-based system. The state capital is working to prove the validity of air-pollution markets in a region with an even more vexing air-quality problem than smoggy Los Angeles because there are few large sources of pollution.

---

*Peter Asmus covers SMUD for state and national trade publications. He is also assistant editor of California Policy Choices, an annual volume published by the University of Southern California's Sacramento Center.*

Perhaps the most noteworthy difference between Los Angeles and Sacramento is the role business played in the development of air-pollution rules. In the southland, regulations were developed in a vacuum, and then adjusted after complaints from industry about costs. Sacramento, however, involved the business community early on. In 1986 the local Chamber of Commerce formed a partnership with the American Lung Association to collaborate on progressive air-quality rule development.

Sacramento's air quality ranks in the nation's bottom 10. While Los Angeles, home of the nation's deadliest air, has close to 2000 major industrial sites, Sacramento has fewer than 100. Sacramento also is about to undergo a major power-plant construction program to supply the power once provided by the Rancho Seco nuclear facility, closed by a vote of the people. Utilities serving Los Angeles, however, still have plenty of power, although much of it comes from old, polluting fossil fuel.

These differences between Sacramento and Los Angeles have forced the capital's utility and air-quality regulators to come up with radical responses to address small-scale polluters such as city buses. Los Angeles should take heed.

The federal Clean Air Act requires all new power plants that emit pollutants in a region that does not meet federal air-quality standards to not add to the overall pollution count. Every ton of pollutant that spews out from a new facility must be "offset" by cleaning up an existing ton of local pollution. How,

then, does a market-driven approach respond?

Pollution market advocates argue that instead of mandating specific controls on every source of local air pollution, regulators should set goals. Firms then may figure out among themselves the best way to meet these standards. This creates incentives for developing the most cost-effective solutions.

In Sacramento, for instance, one "market value" of nitrogen oxides (NOx) — a contributor to urban smog and the Number One air pollutant problem in California — was set in a proposed transaction between two area utilities: Sacramento Municipal Utility District (SMUD) and Pacific Gas and Electric (PG&E). SMUD would pay PG&E \$7.28 million for air pollution "credits" to be developed at PG&E's Brannan Island natural gas compressor station, located near Rio Vista in the Sacramento Delta. SMUD had negotiated a \$28,000 price for every ton of NOx eliminated by installing better pollution-control equipment, paid for by SMUD ratepayers, that will make the PG&E plant less polluting.

Under rules adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD), if such credits (often referred to as "offsets") are developed 15 to 50 miles away from the new source of pollution, the owner of the new power plant — in this case, SMUD — is required to purchase *twice* as many offsets to compensate for the localized air-quality deterioration. In other words, twice the amount of regional air pollution must be cleaned-up to allow the



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construction of a new power plant.

SMUD's true cost, then, is double the PG&E purchase price, or \$56,000 per ton of NOx. Josh Margolis of AER\*X, a Menlo Park firm specializing in air-pollution trades, insists such a transaction is still "a good deal for everybody." He estimated that SMUD's costs without the use of PG&E's pollution credits may have totaled more than \$150,000 per reduced ton of NOx.

Emission trades have occurred in the Los Angeles area but typically have involved shut-down plants selling pollution credits to those that remain active. Labor unions have criticized such deals because of increases in unemployment. Transactions on the scale of the proposed SMUD-PG&E deal, which would help facilitate a net increase of over 60 permanent and 60 temporary local management and construction jobs, have been few and far between.

SMUD has since lined up other companies that may be able to provide a better value for its offset money in the infant air-pollution marketplace. Among them are Swanson's Cleaners, a Unocal facility in Walnut Grove, Grace Industries — a fish farm located on the Sacramento River — and a Formica laminating plant in Rocklin. SMUD is keeping price figures under wraps this time.

There is an even more dramatic example of how Sacramento is attacking the air-pollution problem through development of new pollution credit markets. SMUD, in conjunction with the regional transit system, hopes to help develop a new electric trolley that will not only augment an existing light-rail network but also help clean up the air.

Under a new precedent-setting rule, scheduled to be approved by Sacramento's air-quality management district this year, SMUD will be able to quantify the air pollution reduced by the use of this electric trolley when compared to existing diesel buses and apply them as "offsets" to its proposed power plants. The eyes of regulators across the nation are watching to see if the utility's plan passes federal and state regulatory muster. No doubt this proposal, if successful, could accelerate efforts to use electric mass transit as an aid in achieving air quality and energy supply goals in Los Angeles.

Air pollution markets are not a panacea. But Sacramento's experiments demonstrate that the potential benefits of a market approach appear to outweigh the risks of failure. 

# Insurance: the second Oakland firestorm

By Stanley Moss

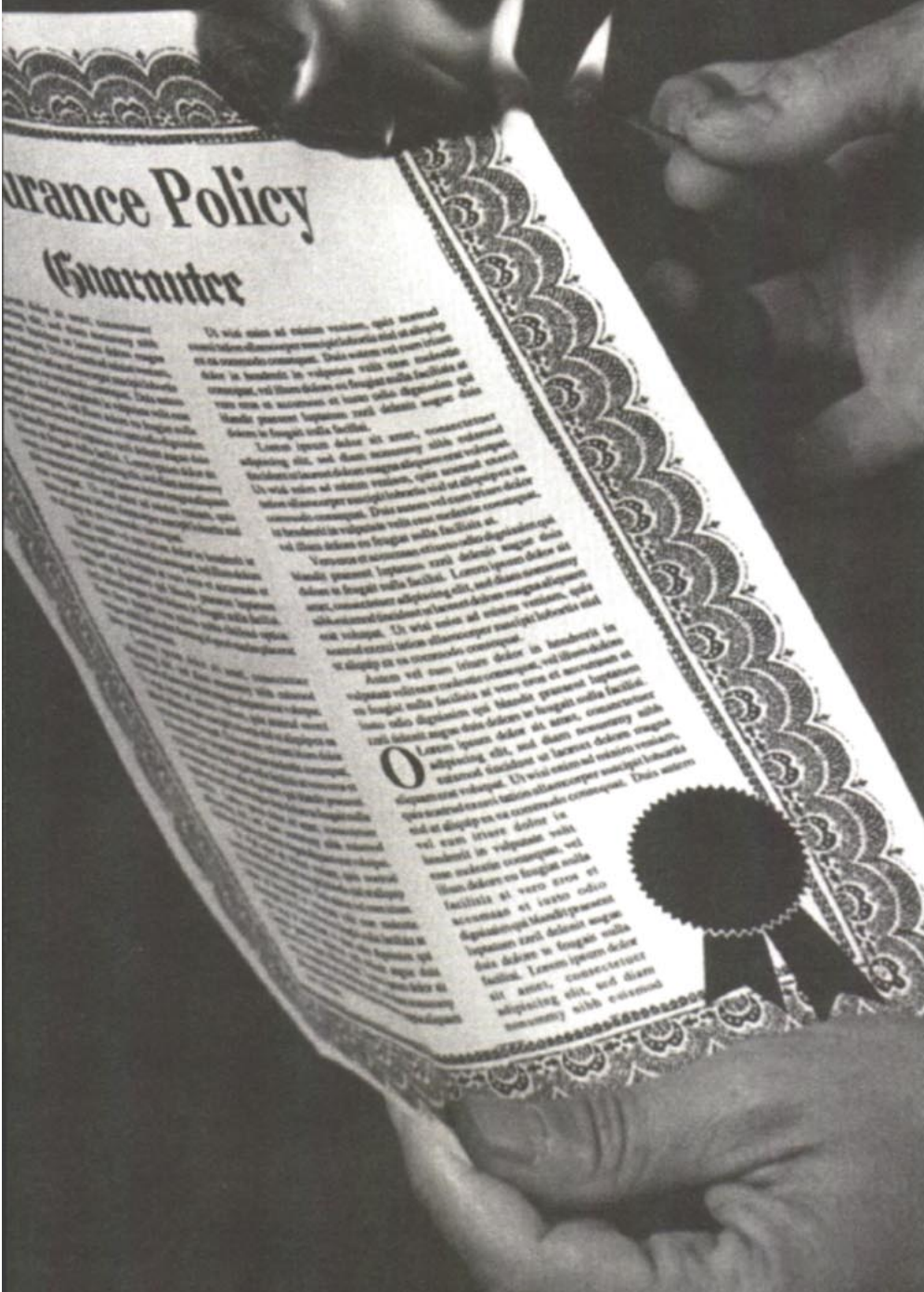
**T**he firestorm that raged through the Berkeley-Oakland Hills on October 20, 1991, pulverized an estimated 3600 homes and 450 apartments, leaving 25 people dead and 150 injured. But it also spawned another kind of horrific firestorm, piling additional trauma on indescribable trauma for already benumbed families, deepening their emotional despair and sense of abandonment. Where only hours before their homes had been a principal source of comfort and peace, now instead they were the subject of bitter controversy that a year later still has fully half and more of these families battling a baffling set of life-disturbing frustrations, despondencies and anger.

This second firestorm centers on insurance and the controversy born out of the entanglement of what homeowners expected their insurance policies would provide in the event of fire and the view insurance companies take of their obligations. The situation is complicated by the perplexing language of insurance policies that leave vital concerns undefined and conceal as much as they reveal.

Ina DeLong, with 22 years of experience as a member of State Farm's Northern California staff, expresses it pithily. "Insurance policies are full of fluffy language."

DeLong says she quit State Farm when she became "disgusted" with how the company handled the claims of families caught in the 1989 Loma Prieta earthquake that devastated much of the Santa Cruz-Watsonville area. At the time, she was disaster supervisor for the company, serving as instructor of adjusters dispatched to settle the claims of insureds. She since has founded United Homeowners, a consumer organization dedicated to providing information and advice to families in their disputes with insurance companies. As a result of her efforts on behalf of families

*Stanley Moss is a freelance writer from Southern California.*



caught in the Berkeley-Oakland Hills holocaust, she says 700 families had their coverage upgraded \$40 million that otherwise they would not have received.

A legalistic, if sardonic, definition of policy language is provided by Richard Krenz, an attorney in the Compliance Bureau of the state Department of Insurance. He labels it "dense and ... a linguistic exercise to read an insurance policy, even if you can understand half the words." Krenz is coordinating the various aspects of the on-going investigation into how Berkeley-Oakland Hills homeowner claims are being handled by insurers.

**A**s early as January 28, 1992, and through most of February, members of both the Senate and Assembly were inspired to introduce legislation dealing with different aspects of preventing and controlling fires; ensuring coordinated state emergency services; providing for debris removal; easing payment of taxes; authorizing tax credits for homeowners victimized by fire; outlawing rent gouging of such families required to seek temporary quarters.

The most far-reaching of these various bills were SB1854 by Democratic Senator Nick Petris of Oakland, whose home was one of the 3600 that went up in flames; and AB2921 by Democratic Assemblywoman Barbara Lee, also of Oakland. Both bills were concerned specifically with standardizing the language of homeowner insurance policies, making them easy to read, and to understand, as protective of the homeowner as of the insurer. Petris' bill eventually passed the Legislature and was signed into law; Lee's bill was defeated.

What are the major bones of contention that from the start bedeviled relationships between insurance companies (there are 38 involved in this catastrophe) and more than 4000 burned-out homeowners and apartment dwellers, many of whom a year later find settlement of their claims quagmired in ugly dispute?

- **Under-insurance.** Who set the amount of coverage, the insurance agent or homeowner? Did the homeowner reject the agent's suggestion because he thought it too much or wanted to pay a lesser premium? Was the coverage suggested by the agent set low in order to

keep the premium down and discourage the homeowner from seeking a competitive policy? Was the insured made aware of everything he or she should know about the terms of the policy, as well as told about available alternate policies?

- **"Replacement cost."** It sounds simple enough, but it's full of quirks and contradictions. First, does replacement cost of the house include erecting a new foundation, if the old one is either totally consumed in the fire or so damaged as to require replacement? "No," says the insurer; "Yes," says the insured. Over the years, upgraded building codes have added costs to rebuilding; who pays for them? "Not us," say the insurers; "Why not?" anguished homeowners challenge. Some policies specify "guaranteed" replacement cost. How does this qualification alter the meaning of replacement cost? Or doesn't it?

- **Pay-offs.** Suppose the homeowner elects not to rebuild but instead is willing to be paid off? What's the basis for settlement when replacement cost is in the policy? Is it the amount of insurance on the house or what the company would have to pay for rebuilding, including the cost of the new foundation and meeting present building code standards? And whose estimate for rebuilding is used, one provided by the insurer whose contractor may have submitted a low-ball bid or the one brought in by the insured whose contractor may have estimated more generously?

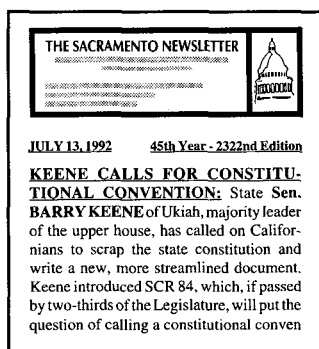
- **Personal property.** Personal property claims rarely can be substantiated by specific listing of items. So, generally, policies provide that a percentage of what the dwelling is insured for will be the basis for this settlement. Some policies stipulate 50 percent, others 70 percent. But is that figure calculated on the coverage provided by the policy, or what finally is agreed upon as the amount to be paid to the homeowner? Is the personal property settlement used as a bargaining chip in negotiations? We'll give you so much for the claim on the house, and even allow you to contest that we should pay you more, on the condition that you accept our offer on your personal property? Supposedly, insurers are prohibited from seeking to make such "deals."

- **Rotating adjusters.** Some homeowners were visited by five, 10 or more adjusters from the insuring company. Each new adjuster meant starting the process all over again. Sometimes,

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the process had to be re-started because the report already submitted was lost somewhere in the office files. Was this a deliberate tactic by the companies to stall settlement and wear down the insured in negotiations?

• **Temporary expenses.** Advances for temporary living expenses are either insufficient or too hard to squeeze out of the insurance company. Moreover, since the policy may provide for this aid to continue for a year, what happens when settlement still is not forthcoming after the year ends or the new house is not ready because of the many delays along the way in reaching settlement? Do living expenses continue to be paid?

**C**ompounding and confounding these various questions and others is the flatly contradictory testimony of insurers and insureds regarding how the former have sought to discharge their obligations to the latter. At a two-day public hearing in May, top insurance company executives were unanimous in telling Insurance Commissioner John Garamendi and his staff that their companies not only had been exemplary in responding to policyholders, but in many instances had extended themselves in giving them more than was required by contract. The execs cited the many tens of millions of dollars their companies already had paid to policyholders, starting the first day after the fire.

"I am pleased to report that the majority [of our policyholders] were completely satisfied with our service," Glenn Dorsett, Northern California regional vice-president for State Farm, told the hearing. Speaking for Allstate Insurance, John Blakely Jr. said, "I am proud of what [our people] have done. ...Allstate has continually worked to provide excellent service to our customers and prompt resolution of their claims." And so it went from their peers representing Allstate, California Casualty, California State Automobile Insurance Company, Civil Service Employees Insurance, Fireman's Fund, Safeco, and Transamerica.

But angry, disappointed policyholders had other versions of how insurance companies had responded to them. For example, David Curry, a transportation consultant whose home is insured by Allstate, said, "The honeymoon stage of our Allstate relationship ended suddenly." Speaking in behalf of other Allstate insureds, he added, "Some [adjusters] attempt[ed] to minimize Allstate's losses by tactics of delay, deception,

stubbornness, bluffing and withholding information needed to make a fair and rapid settlement."

It was the testimony of John Lynch, regional vice-president of Farmers Insurance, however, that caused Garamendi to explode. After saying he was "extremely proud" of the way his staff responded to fire-victimized homeowners, Lynch stated that 70 percent of reported losses already were settled as of that day. Then he proceeded to summarize his company's policy regarding settlement of claims. Essentially, it was a "stick-to-the-contract" approach. If the coverage was selected by the homeowner, this was all he would receive regardless of its insufficiency. In the "handful of cases" in which the agent had determined the coverage and it was insufficient, coverage was increased to the cost of replacement. Payment for loss of personal property was limited to policy requirements. Living expenses would end after 12 months.

At this point Garamendi interjected. "Excuse me," he said, "I have heard a recitation of five 'I don't give a damn what the problem is, we are going by the language of the contract.' Is that what I just heard you say?"

Lynch replied that his company had an "obligation to other people who are not victims to not pay claims outside of the contract limit." As a final rejoinder, Garamendi said, "You just told [your policyholders], 'Screw you,'" and concluded with the admonishment to Lynch, "If this be war, then so be it."

Russ Aubrey, a Farmers Insurance policyholder, questioned why Lynch should be so "proud" when, in fact, the company's harsh policy has caused many fire victims great grief while allowing special dispensation to a favored few.

The Petris bill was intended to bury the bones of contention that insurers and insureds have been chewing on for almost one year. Among other features, it mandates that all homeowners policies issued or renewed after July 1, 1993, must disclose in simple standardized form the various forms of coverage available. These include "guaranteed replacement cost," including cost of upgrading "without regard to policy limits" or with limited or no payment for upgrading but still ignoring the specified coverage figure.

There is the choice of "extended replacement cost coverage" that "pays replacement costs up to a specified amount above the policy limit," as well

as "replacement cost coverage up to the policy limits." Also, the homeowner will have available "actual cash value coverage [paying] the fair market value of the dwelling at time of loss, up to the policy limit." Finally, the homeowner can elect to cover building code upgrading up to a specified limit when naming the amount of coverage wanted for the house.

**M**oreover, no policy can be issued or renewed after the 1993 date unless in the policy, or on a separate disclosure form, there is specific declaration of limits of liability for the structure; limits of liability for personal property; deductibles; and whether coverage is provided for code upgrading. In the absence of the latter, the policy has to state, "This policy does not include building code upgrade coverage."

Several industry witnesses who testified at the two-day hearing offered specific suggestions that underscore the intentions of the Petris bill. Prominent among them were Ina DeLong; Jack Neureuter, a licensed insurance agent and executive director of the Oakland Association of Insurance Agents; and insurance broker Ed Baldwin, a member

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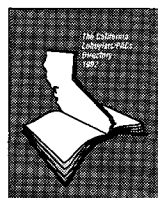
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of the board of governors of the Western Insurance Association of Insurance Brokers.

Baldwin, for one, thinks that if the insurer undertakes to determine the insurable value of the house and offers replacement cost, it is obligated that replacement be equal in kind and quality, regardless of the stipulated amount of coverage. This obligation, he says, includes the cost of meeting upgraded building codes. Neureuter, who also serves as ombudsman in insurance matters for the city of Oakland, doesn't think the word "guarantee" is necessary when the policy calls for "cost of replacement" or "replacement cost." But the concept should be standardized for all insurers. A homeowner may accept the company's recommendation that the policy cover replacement cost or decline rather than pay the extra premium cost, but must sign a disclaimer to establish he declined the opportunity. Neureuter agrees with Baldwin that the company should have an appraisal system — he labeled it "sophisticated" — that includes local contractors. Moreover, the original amount of insurance coverage ought to rise as the house's value does, he says.

In addition, Neureuter believes insurers should inspect the house before issuing insurance coverage. Finally, to avoid unnecessary disputes, in or out of court, the policy ought to provide for arbitration or mediation to settle differences. DeLong is clear about several points. It's more than writing policies in straightforward terms, without ambiguity or intent to give insurers escape hatches through which to avoid paying claims fairly and promptly. Adjusters should be trained and licensed, she says. As it is, she amplifies, "The person who delivers your pizza today could be the man who tomorrow is the insurance company adjuster evaluating the value of your claim."

Garamendi's Department of Insurance reports that between 10 percent and 15 percent of all cases relating to the Oakland fire still are unresolved, although a detailed round-up of the situation was only made available during another department hearing in late October 1992. Department of Insurance attorney Richard Krens estimated that State Farm alone still has more than half of its claims outstanding, worth about \$83 million. And the department has filed suit against Allstate for what it calls "unfair claims practices."

Meanwhile, the pain continues. 

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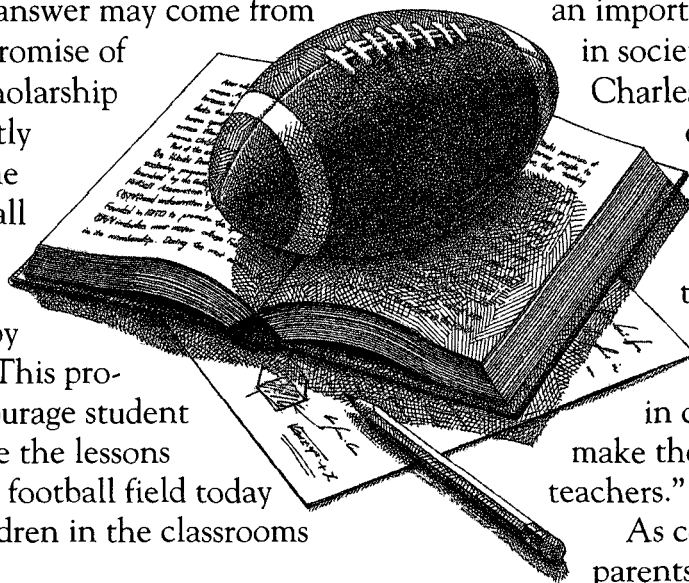
Each recipient will use his or her \$5,000 grant to continue postgraduate studies in education or to meet certification requirements for pursuing a teaching career.

The CFA hopes that the "Hitachi Promise of Tomorrow" program will encourage more young people to enter the teaching profession. "Teaching plays an important but undervalued role in society today," explains Charles M. Neinas, the CFA's executive director.

"We'd like to encourage students to pursue this field, and think that the leadership, discipline, hard work and team spirit that students gain in college football will help make them effective classroom teachers."

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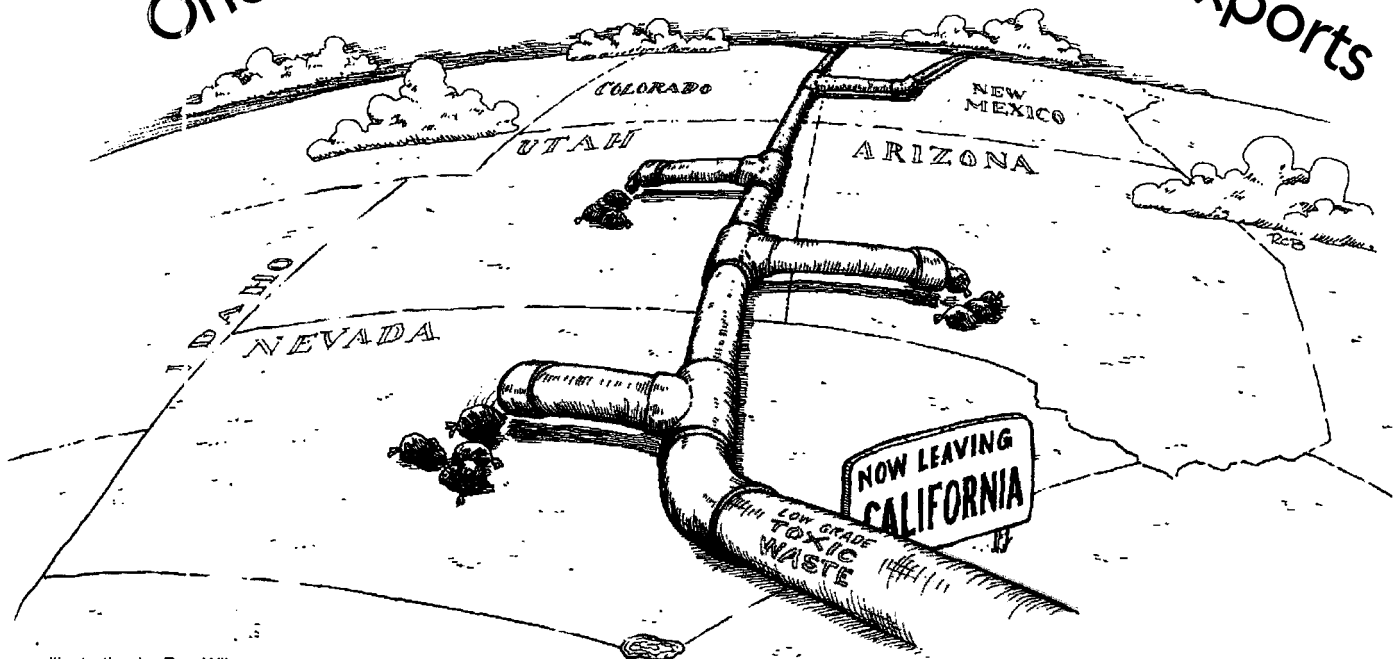


illustration by Roy Wilson

**By Mary Taylor  
and Maaria Khamis**

It has been much in the news lately that California is exporting more and more jobs and business opportunities to other states. And you can count on the fact that those states have greatly appreciated it.

BUT CALIFORNIA also has been exporting something else to many of those same states — toxic waste. And the effusive “thank you” has turned into “thanks a lot!” Exports of such products as metal sludge, pesticide rinse water, adhesives, latex waste, asbestos, drilling mud, detergent, retort ash and chemical toilet water — the flotsam and jetsam of Aunt Minerva’s industrial base — have been flowing out of California at an ever-increasing rate, soaring from just over 39,000 tons in 1986 to more than 360,000 tons by 1990 — an increase of 925 percent in half a decade.

Most of this offal ends up in the hospitable wastelands of Utah, Nevada, and Arizona, and among the vast dusty mesas of Mexico. But it also is packed off to places like Illinois, South Carolina, New York, Oregon, Minnesota, Florida, Arkansas — in fact, 31 different states got a care package from California in 1987, according to a report issued by the state Department of Health Services.

*continued*

*Mary Taylor and Maaria Khamis are California Journal interns.*

On the flip side, California also imports toxic waste from other states — 31,000 tons of it in 1988 (compared with 163,811 tons sent off in the same year). But the net is a net loss (or gain, depending on your point of view) for California.

California exports this kind of stuff for several reasons. First, it's better to bury this kind of material in someone else's backyard. Second, environmental groups have been much more active in California than in other Western states over the past dozen years, and the result has been tougher regulations for treating and disposing of hazardous wastes — tougher than those in other states and even tougher than those passed by the federal government. Third, because of those tougher regulations, California no longer has the capacity to deal with all of its own waste at home. And finally, the disposal of hazardous waste via landfill or incineration is a private enterprise. There actually exists a market place, with competition between private firms that handle hazardous materials.

Overall, the state's goal has been to reduce the amount of hazardous waste that has to be dealt with in the first place, either by encouraging the development of environmentally-sensitive technology or by recycling and treating it at the place where it is produced.

“ In the good old days, producers just went out and sloshed it into the ground, and there seemed to be plenty of privately-run dumps available for the sloshing. At one point in the late 1970s, there were 11 such sites scattered throughout the state. ”

According to sources within the California Environmental Protection Agency (Cal-EPA) the preferred way to deal with hazardous waste is not to produce it in the first place, and the state has worked with industry to change various manufacturing processes or to

change materials that go into products. Not all waste may be dealt with this way, thus the next-preferred step is recycling. The third priority is treatment of waste on-site, with the last option being land disposal.

But goals are one thing. In reality, the state has concentrated on regulating industry. The main thrust of this regulation has been an effort to force producers to change how they deal with waste, mostly by making it more difficult to dump it. In the good old days, producers just went out and sloshed it into the ground, and there seemed to be plenty of privately-run dumps available for the sloshing. At one point in the late 1970s, there were 11 such sites scattered throughout the state. In the 1980s, however, new state and federal regulations resulted in eight of those landfills

being shut down. Of the three that remained open, strict regulations made it more difficult for companies to dump there.

Basically, dumps closed for many reasons. In the mid-1980s, the state regulations imposed new requirements for hazardous-waste landfills. Those new regs took affect in November 1988. Landfills had to have run-on and run-off systems, double liners, groundwater monitoring systems, and landfill owners had to maintain the financial resources and insurance to pay for clean-up work after a landfill closed. All this made landfills much safer, but it also made them more expensive. Several fills could not, or chose not, to meet these new requirements — and they shut down. Several others shut down due to leaking problems.

Of course, private enterprise could always build new dumps that met all of the new regulations. But because of the new regulations, coupled with an extensive permitting process, building new dump sites capable of handling hazardous waste is no easy chore. Want one in your neighborhood? Thought not. Nor, it seems, does anyone else. In addition, landfills must be located in an area where the geology is stable and there is no easy access to groundwater, and where not a lot of people live.

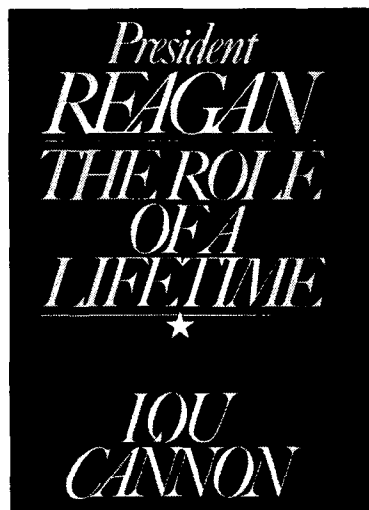
There are other ways to handle some wastes. For example, asbestos is considered too toxic for California's waste sites. The most efficient way to deal with asbestos waste is through incineration,

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but California has no incinerators, nor are the regulations in place that would allow anyone to construct one, so the material must be shipped out of state. Incineration is a viable option, according to Cal-EPA, but public opposition has been so strong that have made it off the drawing table.

And therein lies the tale of exports. In the past, other states have not regulated hazardous wastes as rigidly as has California. In some ways, the state encouraged exporting because fees charged by California for dumping in state were much higher than those assessed for exporting the material. Thus, it was cheaper to pay the export fee, haul the sludge or whatever to another state and pay to dump it there than it was to pay the fee for dumping in California.

The high fees for land disposal in California were not designed merely to discourage dumping here. They actually were meant to encourage new technologies and recycling efforts. If it became too expensive to dump waste, so the reasoning went, producers would be forced to look into ways to reduce or recycle it. But for a while, the receptive attitude of other states, coupled with the costs, didn't encourage companies to do anything but truck it over the nearest border. The fee for dumping in California has been as high as \$105 per ton, compared with \$42 per ton to export it and as little as \$12 per ton to dump it in another state.

But the state may have to turn inward once more to find a solution, for with the increased volume of exports from California has come a reluctance by other states — especially Utah and Nevada — to be California's private dump site, and a heightened awareness of the environmental costs to those states.

States cannot outright ban the import of toxic wastes into their waste facilities. The United States Supreme Court has ruled on several occasions that such a ban violates the commerce clause of the federal Constitution. But neighboring states recently have taken steps at least to slow down the flow from California. Utah, for example, raised its waste import fees from \$12 to \$35 per ton to reduce the financial incentive to transport toxics there. Utah's speaker of the House, H. Craig Moody, believes this new fee should pass the

Supreme Court guidelines and slow down California dumping. Although Utah has the capacity to handle waste from many states, Moody does not believe it should be public policy to do so, declaring that "every state should deal with its own waste."

**The high fees for land disposal in California were not designed merely to discourage dumping here. They actually were meant to encourage new technologies and recycling efforts.**

Recognizing this growing reluctance on the part of other states, California, too, has taken steps to discourage waste export. One is the passage this year of a bill, effective January 1, 1993, that drops disposal fees to \$42.42 per ton — a fee comparable to those of neighboring states. Although lowering disposal fees has been endorsed by both environmentalists and industries, no one is quite sure whether it will reduce waste export.

While environmental groups pressure state government to enhance toxic waste regulations, industry tries to keep up with new manufacturing and waste-reduction technologies, even as California's manufacturing base continues to flounder under a recession.

Paul Kronenberg, a spokesperson for the California Chemical Industry Council (CCIC), states that in California's current economic climate, it's difficult to

judge what affects new technologies and regulations will have on waste reduction. It is his contention that if California's economy recovers, demand and production may determine how much waste is produced regardless of environmental policies. From his perspective, some waste policies that work in theory may not work when practiced in a dynamic market economy.

The CCIC agrees with others active in this issue that each Western state should be responsible for managing its own hazardous materials. Unfortunately, they feel that it still may be a long time before California is able to stop exporting to other states because, it says, reducing waste involves a complete restructuring of both manufacturing procedures and technologies.

Although they come at a high price, regulations have been able to reduce some of California's hazardous materials output. According to Alan Hirsch, a spokesman for the California EPA, there has been a 30 percent reduction in the amount of incinerable (therefore, exported) wastes produced in California from 1986 to 1990.

As California tries to reduce its hazardous materials output, it's also working to maintain good relations with its neighbors. At a February 1992 meeting of the Western Governors Association, Governor Pete Wilson and 20 of his counterparts signed the Western States Regional Waste Management Protocol. The compact establishes a regional standard for waste management and recognizes that states must work together in order to solve their hazardous waste problems.

Meanwhile, the exporting continues. 

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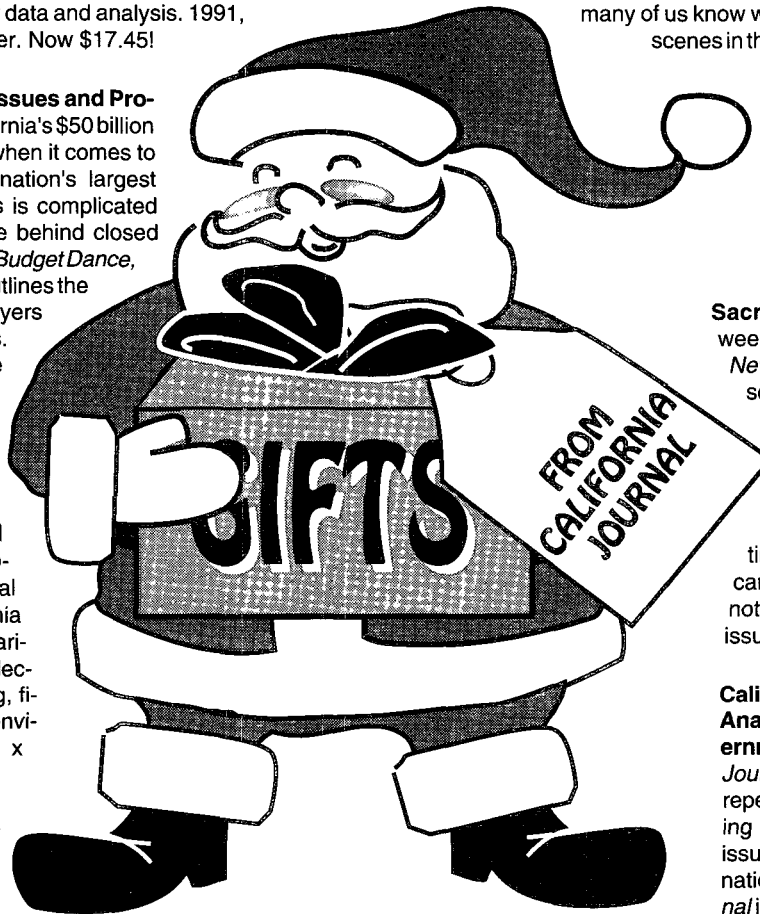
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# TRAUMA CARE:

## Is the crisis bad? Or, is there a crisis at all?

By Richard Narad and Daniel Smiley

**T**he Assembly Office of Research characterized California's trauma system as a "medical and financial emergency." Some hospitals have dropped their designation as trauma centers, citing financial losses. It is a situation not unique to California; hospitals in several states have dropped out of the system, reportedly because of the high number of uninsured patients.

Trauma centers provide the health-care system's first line of defense in medical emergencies — heart attacks, auto wrecks, gun shots, accidental poisonings, industrial disasters, drug and alcohol overdoses. Often, the battles fought within the walls of a trauma center mean life or death to thousands of victims. Thus, the closure or threatened closure of a trauma center generates a wealth of media attention and efforts to increase financial subsidies for all centers. To this end, the California Legislature has considered several bills intended to stabilize funding for trauma centers, although only one — a local-option tax — was signed into law. The tobacco and alcohol tax initiatives also included funding for trauma and emergency care.

But despite the media attention, questions about the economic viability of trauma centers remain. Are California's trauma centers really in trouble? And, is it a statewide crisis or a local problem confined to a few, high-visibility areas? Finally, does the situation justify the expenditure of new public funds?

The answers are not as obvious as is commonly assumed.

In a trauma system, one or more hospitals are designated as "trauma centers," and selected patients are transported to these centers or are transferred to them following

stabilization at another hospital closer to the scene of the trauma itself. To gain a trauma designation, a hospital must have a surgeon and other specialists in-house or available within specified times, thus minimizing the time to surgery. By regionalizing services, centers achieve both economies of scale and higher degrees of proficiency. Twenty-three counties, covering over 75 percent of California's population, have trauma systems; there currently are 40 designated trauma centers in California. Since 1982, 22 hospitals dropped the designation.

Despite the image of widespread funding problems, only 10 of the centers that have dropped their designation cited financial reasons for doing so — and all 10 were located in Los Angeles County. One-third of the trauma centers that closed since adoption of the state's standards were probably inappropriately designated. For instance, all four of the hospitals in Tulare County were trauma-designated, without changing patient destination or improving the level of care provided. Fresno County opted to centralize its trauma system from three centers to one. Most media attention in California has focused on Los Angeles County, however. When the 10 trauma centers resigned their designation, it left the county with 13 centers. Although the system appears stabilized, some parts of the central and eastern Los Angeles basin have decreased coverage.

Although the loss of 10 trauma centers in Los Angeles set off a wave of concern, some experts believe that the county had too many trauma centers to begin with. One estimated that the county needs no more than five centers, while the county's health director estimated that seven to 10 trauma centers would be needed. Although these were estimates, the number of centers designated could not be explained by available data or planning guidelines.

The financial impact of trauma care on a hospital depends on a number of factors; the program is not an automatic "loss-leader" and may even be profitable. While only 26 of the 43 respondents to a 1988 survey had performed a financial study of trauma operations, the results

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suggested that a trauma-center designation did not necessarily mean a financial loss. Five hospitals (19 percent) reported that the trauma service was profitable, seven (27 percent) were "breaking even" and four (15 percent) reported better payment from trauma than from other patient groups.

**T**here are financial pitfalls, however. Sometimes, trauma hospitals suffer financially because they fail to bill available sources of revenue, such as California Children's Services, Victims of Violent Crime, county medically indigent programs, and even Medi-Cal. In addition, a hospital's effort to contain costs may conflict with trauma-system goals. Competition among various hospitals also has decreased the ability to shift costs from indigents to patients with insurance, limiting a hospital's willingness to provide uncompensated care or to take on activities that are not self-supporting. Since health providers can no longer shift the cost of indigent care, they attempt to shift the patients themselves.

Aside from financial considerations, hospitals that take on the trauma-center designation may run into other problems. For instance, it may cause friction among a hospital's staff. A high rate of emergency surgery can squeeze out elective surgery, which is profitable for both the hospital and its private surgeons. Competition between trauma staff and other physicians for funding, space, equipment and other hospital resources can be a source of friction within the facility and may result in rejection of trauma-center designation.

And then there is the public-relations conflict. Hospitals cite the positive value of a trauma-center designation and its use in recruiting nursing staff. This "halo effect" can increase market share by implying that a hospital that has been found to be a center of excellence in one area is preferable in other areas as well. But there is a flip side. Trauma services may also promote a negative image — that many trauma victims are injured while committing drug-related crimes, are gang members, or are homeless. In fact, the vast majority of trauma injuries do not involve violent crime but are a result of auto accidents.

Under the administration of former Governor George Deukmejian, trauma systems were seen as a purely local option. Deukmejian's successor, Governor Pete Wilson, has a long history of interest in trauma. As a United States senator during the 1980s, Wilson participated in the establishment of a new federal trauma program. Like indigent care generally, funding for poor trauma patients is largely a county responsibility. State legislation in 1987 and 1988 allowed counties to increase the penalty assessment on traffic violations to support emergency medical services. Proposition 99, the 1988 cigarette tax initiative, also provided money to counties for emergency medical services. These programs include funds for both hospitals and physicians.

Although most counties with trauma systems have implemented these penalty assessments, distribution from the fund has lagged. Still, these funds helped to stabilize trauma systems. Only one center has dropped its designation since implementation of Proposition 99, and this facility was in a county that had not implemented the earlier penalty assessments and dropped due to a lack of on-call physicians. However, any decrease in Proposition 99 funds away from trauma care could exacerbate remaining problems and again destabilize systems.

A variety of policy options exist for ensuring appropriate statewide access to trauma care, including state and local

initiatives and private efforts. These options are not mutually exclusive, and different approaches may be appropriate in different parts of the state.

• **Local options:** Wilson's proposal to realign and transfer state programs to the local level with the ability to raise funds for these programs would be consistent with maintaining trauma systems at the local level. Continuing trauma systems as a local option is the least-expensive approach. But it has some notable shortcomings. For instance, it does little to ensure statewide availability of care and doesn't address inter-county coordination and benefits of services in any area to non-residents. In addition, trauma system efficiency might be improved if the state were to designate trauma centers. With county boundaries ignored, trauma centers could be strategically placed to maximize effectiveness and minimize costs.

• **Direct subsidy:** Because of the perception that trauma centers are underfunded, the predominant method suggested to solve the perceived trauma crisis is the injection of public funds to operate trauma systems and centers. The state budget deficit makes it unlikely that general fund money will be available for trauma center reimbursement; the only likely option for improved funding of trauma centers is earmarked funds, including continuation of the cigarette tax and penalty assessment, or new efforts to enact motor vehicle license fees or an alcohol tax.

• **Regulatory changes:** Trauma-system planning must consider hospital workload, geographic coverage, patient transport time and economic impact. Although the perception of a crisis has largely resulted from the closure of trauma centers in LA, it has been estimated that the county could provide adequate access to care with fewer trauma centers. An arbitrarily set maximum transport time — established at the request of the LA City Fire Department — is one reason for the large number of centers. Since Los Angeles County's trauma plan does not identify the optimal number of trauma centers required to serve the county, there is no way to evaluate its system design in order to determine any need for state subsidy.

The American College of Surgeons' standards for trauma centers, which form the basis for California's regulations, are titled "Resources for Optimal Care of the Injured Patient." While it is understandable that physicians would seek optimal care, policymakers must also consider cost efficiency. In areas which are unable to meet "optimal" standards, "better" would still be an improvement over "nothing." For example, an in-house trauma surgeon might be optimal, but one who is on-call within a short period of time is better than no trauma center at all.

**A**n example of a costly requirement used in some systems is that of an immediately available neurosurgeon. At Oakland Children's Hospital, which received a \$1.46 million subsidy from Alameda County in 1991, neurosurgeons are paid \$1500 per day to remain on-call, despite the low incidence of pediatric neurotrauma, particularly outside of daylight hours.

• **Hospital changes:** One way to decrease losses from trauma patients is to increase patient revenues. An increasing number of hospitals use "special trauma charges" to recover the costs of the higher level of care (surgical availability) directly from the beneficiaries. Several hospitals with county contracts for indigent care have negotiated special rates for

trauma patients.

Some hospitals have increased collections by pursuing non-traditional payment sources, including the California Victims of Crime Fund and the medical coverage under automobile insurance. An estimated 15 percent of trauma patients at Sharp Memorial Hospital in San Diego pay by this source but, at other hospitals, internal policies limit its use. Any public subsidy should require providers to first maximize their revenues; however, use of other public programs will redistribute, not decrease, total state costs.

• **Preventive health programs:** The cost of treating trauma might be decreased by preventing it. Injury control programs — including motorcycle helmets, auto seat belts and air bags, gun-control initiatives — have been recommended and/or implemented in California. After two vetoes by Governor Deukmejian, a bill requiring use of motorcycle helmets was signed by Governor Wilson in May 1991.

Decreasing the incidence of trauma might lower direct treatment costs, but cannot eliminate the fixed costs of ensuring the availability of trauma services. Since trauma cannot be eliminated, and due to the large fixed costs of maintaining availability, the benefit of preventive programs is limited.

• **Universal health insurance:** The problem of non-paying trauma patients must be viewed in the context of health-care funding, generally. Approximately 37 million

Americans — including six million Californians — are without health insurance and many more are seriously underinsured. Increased numbers of the medically indigent and uninsured have contributed to financial problems for trauma centers, and any solution should consider this larger question. Guaranteeing reasonable payment for all patients would eliminate the need for the “wallet biopsy” and minimize economically driven shifting of emergency patients. This would again increase the desirability of trauma-center designation for hospitals.

While trauma centers have closed and access to care is limited or threatened in other areas, this is not proof *per se* of a “crisis.” At least one-third of the trauma centers that have closed probably should not have borne the designation in the first place. Improved system planning, including limiting the number of trauma centers and developing economically viable trauma districts will generally provide a stable system. Some centers in geographically desirable locations but with non-lucrative patient mixes may need a direct subsidy to maintain the solvency of their trauma programs, but direct subsidy is necessary only in such areas.

The long-term strategy for ensuring the viability of trauma systems must combine methods to improve effectiveness and efficiency of trauma systems with a solution to the nation’s health-financing dilemma. 🏠

## BALLOT FRONT

*A roundup of statewide initiative proposals. All statutes require 394,975 valid signatures; constitutional amendments require 615,958. In parentheses is the deadline for sponsors to submit signatures to county clerks, and the issue of California Journal that contains a full explanation of each measure. Should they qualify, measures currently in circulation would appear on the June 1994 ballot. The full texts of all initiatives may be obtained from the Secretary of State's election division, 1230 J Street, Sacramento CA 95814.*

### New in circulation:

**BUDGET PROCESS, FORFEITURE OF OFFICE** — an initiative constitutional amendment, sponsored by Donald Blake Jr. of Oroville, that requires the governor and members of the Legislature to immediately forfeit their offices if a budget is not passed by June 15th or enacted by June 30th of each year. Further, if a budget is not passed or enacted, certain employees of the governor and Legislature also are terminated. The measure provides for an interim budget, reducing the previous year's fiscal budget by 10 percent across the board. It further calls for a special election on the first Tuesday after September 15th to elect new lawmakers and a new governor. (February 22, 1993)

**MAJORITY VOTE, STATE BUDGET, LOCAL SCHOOL BONDS, LOCAL SCHOOL CONSTRUCTION FEE LIMIT** — an initiative constitutional amendment, sponsored by Howard Owens of Sacramento, that permits lawmakers to pass the state budget by simple majority vote rather than then current two-thirds majority and imposes a forfeiture of salary and living expenses on the governor and legislative members if the budget is not passed by the June 15th deadline. Also, the measure reduces to simple majority the voter approval requirement for general obligation bonds issued by school districts, county offices of education or community college districts for construction, reconstruction or rehabilitation of schools and limits local assessment fees that may be charged to developers by educational entities. (March 8, 1993)

### Continuing in circulation:

**JUDICIARY, BUDGET** — an initiative constitutional amendment, sponsored by Richard Millan of Long Beach. (November 30th, August 1992 C.J.)

**PUBLIC AGENCY EFFICIENCY** — an initiative statute, sponsored by Robin Raymond Anderson of San Pedro. (November 30th, August 1992 C.J.)

**COMMITTEE FOR JUSTICE IN WORKER'S COMPENSATION** — an initiative constitutional amendment, sponsored by John Debbs of Sacramento. (November 30th, August 1992 C.J.)

### Failed to qualify:

**AUTOMOBILE ACCIDENT INSURANCE** — an initiative statute, sponsored by GOP Assemblyman Ross Johnson of Fullerton and GOP state Senator Frank Hill of Whittier. (July 17th, April 1992 C.J.)

**EDUCATION** — an initiative constitutional amendment, sponsored by GOP Assemblyman Nolan Frizzelle of Fountain Valley. (July 27th, April 1992 C.J.)

**TERM LIMITS FOR CITY, COUNTY AND PUBLIC DISTRICT** — an initiative constitutional amendment, sponsored by Tim Patterson of Point Richmond. (August 3rd, June C.J.)

**HEALTH CARE REFERRALS, SERVICES, COSTS** — an initiative statute, sponsored by Stanley Kyker of the California Restaurant Association. (August 24th, June C.J.)

**FINES AND BAIL** — an initiative statute, sponsored by Norman Bedford of Healdsburg. (August 27th, June C.J.)

*Source: secretary of state*

# WASHINGTON PERSPECTIVE

By LARRY LIEBERT

## Levine and Campbell, adieu

When congressional Democrats faced off against Republicans in their annual softball game, Mel Levine was warming up in the bullpen. But the congressman from Los Angeles was anything but eager to be called to the mound.

**"I** PITCHED EVERY PITCH IN THE '80s. My arm is gone," said Levine, who is a baseball fanatic. "I was no longer willing to risk my arm as a lame duck." As it turned out, the game was called on account of rain after two innings.

The event was part of the long goodbye of Levine and other lame-duck members of Congress who lost primary contests back in June. They've had all the months since then to rebuild their egos, tidy up their affairs and conclude their legislative careers, unlike the batch of abrupt losers in this month's general election.

In Levine's case, the former assemblyman gave up a decade-long career in the House for what turned out to be a disastrous U.S. Senate campaign. "I thought there was so much I could do in the Senate that it was worth the risk," he said. "I do not regret that decision."

Lame-duck status didn't stop Levine from working on the things he most cared about in the final months of Congress. The ardent supporter of Israel mounted a doomed campaign of opposition to President George Bush's sale of Missouri-made F-15 fighters to Saudi Arabia. And Levine also tried without success to pry loose the long-stuck bill to provide wilderness protection to vast stretches of the California desert. "I was very proud of the fact that we got that bill off the House floor by a veto-proof margin," he said. But the measure remained stalled in the Senate by the state's appointed U. S. senator, Republican John Seymour.

Asked what he would change about the House that he is leaving, Levine called for "very, very strong majority leadership" to counter "obstruction" by the Republican minority. That sounded like criticism of House Speaker Tom Foley's mild-mannered style, but Levine was not willing to name any names as he headed for the Capitol door.

Nor was Levine quite ready to critique the primary campaign he lost to Representative Barbara Boxer, a campaign in which he was widely seen as squandering advantages of money, connections and geography.

"It was my campaign, and I certainly have learned some things about running a statewide race and would have done a number of things differently," he said. "I don't think it's productive to detail those things at this point."

Although many would call him a political has-been at the age of 49, Levine wouldn't rule out interrupting his planned career as an L.A. lawyer. "I would love to serve in the Senate from California," he said. "If the opportunity were to arise again, I'd want to take a look at it."

Meanwhile, regarding another lame duck: While Republicans were holding their fervently right-wing convention in Houston in August, Tom Campbell was touring the countryside of Ireland, liberated from mundane political concerns as

only a freshly minted loser can be. Which is not to say, however, that he could keep his mind from drifting back to California's GOP Senate primary in June.

"I spent a lot of time, particularly driving around Ireland, going over it," said the moderate congressman from Stanford. "I don't think I would have done anything differently in a major way at all."

Some see Campbell's loss to conservative Bruce Herschensohn as debunking the theory that a new breed of Republican moderate — conservative on economics but liberal on social issues — is a perfect fit for post-Reagan California politics. Six years ago, moderate Ed Zschau narrowly won a crowded Republican primary only to lose narrowly to Alan Cranston in the general election, partly because disaffected conservatives sat on their hands. This time, Campbell, a near-Zschau clone politically, didn't even make it past the primary.

"I think I could have beaten Barbara Boxer in the autumn," Campbell insists. "I lost in a three-way race with 16 percent going to Sonny Bono. Sonny Bono took far, far more from me than he did from Bruce Herschensohn. Thus, I came to the conclusion that had Sonny Bono not been in the race I would have been the nominee."

Campbell, a 40-year-old attorney, economist and former director of the Federal Trade Commission's Bureau of Competition, has taught Sunday courses to keep his tenure at Stanford Law School, where he'll be returning to teach full time in January. The conspicuously brilliant Campbell made his mark in just four years in Congress, partly by concentrating on his expertise in arcane antitrust law. But he is every bit the exasperated academic when he describes his first-hand study of Washington bungling the federal deficit.

"There's a theory called revealed preference," he said. "It's as simple as saying that the way people behave is how they really wish to. Congress and presidents — Republicans and Democrats — have talked about the deficit, and the deficit has grown. I come not to a cynical but a very honest conclusion that the people who really make Washington work do not care about the deficit, Democrats or Republicans."

Campbell backs term limits for Congress. He likes a proposal to build a constituency for spending cuts by reducing personal income tax rates \$1 for every \$3 that goes to deficit reduction. And he'd like to see Congress' authorizing committees, which create promises of new government spending, merged with the appropriating committees that actually divvy up limited funds.

**C**AMPBELL SAID HIS FELLOW HOUSE MEMBERS were "overwhelmingly people who were trying to do the right thing" but that some gave in to pressures from their party or interest groups.

"A couple of times, maybe three or four," Campbell said, "someone has been direct about it when I cast a vote that was particularly difficult: 'I wish I had the guts.' Or, 'I'm selling out this time.' I actually heard that expression." 



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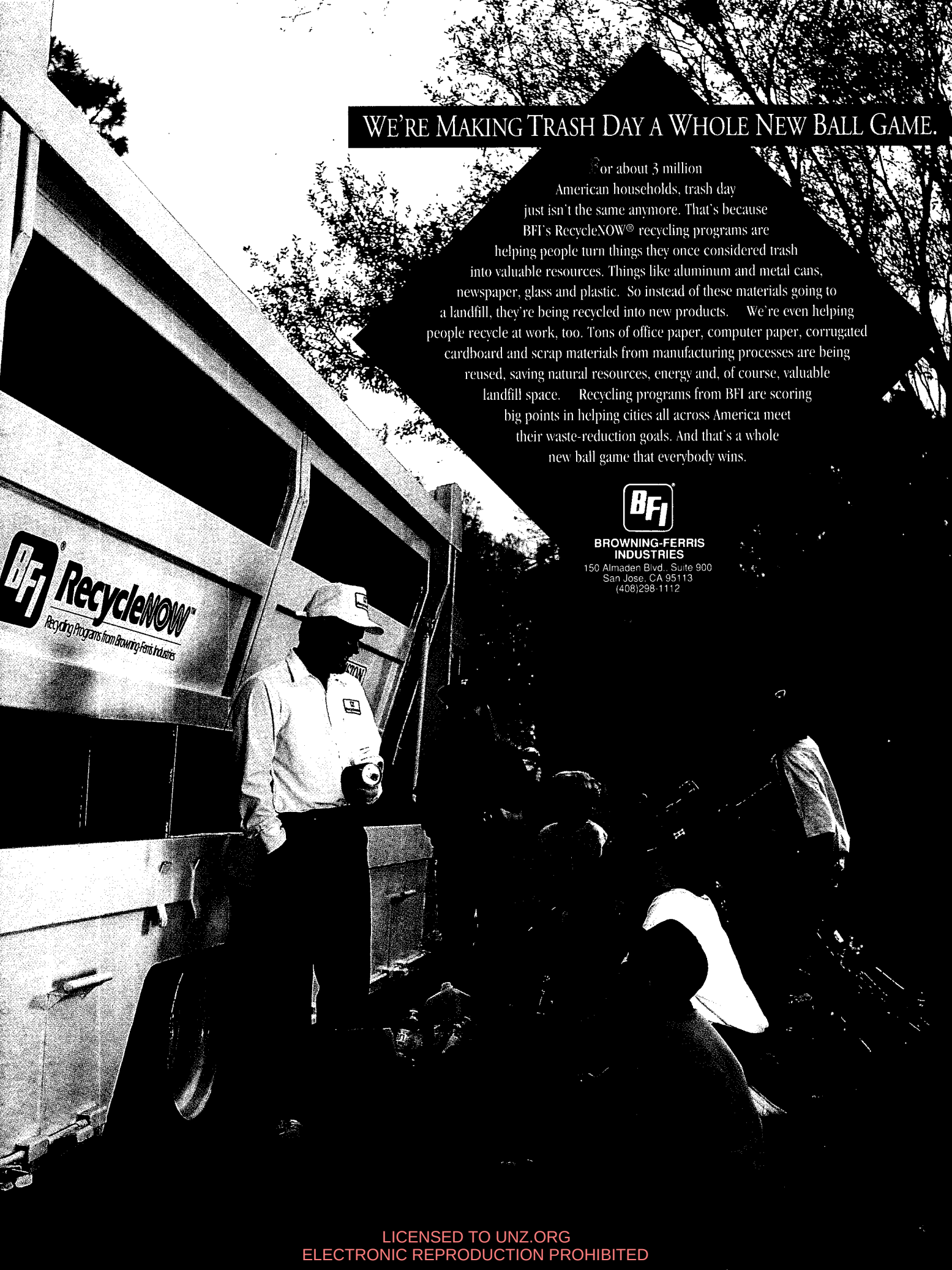


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